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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके

Separate paging is given to this part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ राज्य क्षेत्र प्रशासनों को छोड़कर)

केन्द्रीय प्राधिकारियों द्वारा जारी किये गये विधिक आदेश और अधिसूचनाएं

Statutory orders and notifications issued by the Ministries of the Government of India
(other than the Ministry of Defence) by Central Authorities
(other than the Administration of Union Territories)

ELECTION COMMISSION OF INDIA

New Delhi, the 2nd November, 1972

ORDER

S.O. 4108.—Whereas the Election Commission is satisfied that Shri R. Govindarajan, Edumalai P.O., Lalgudi Taluk, Tiruchirappalli District, a contesting candidate for election to the Tamil Nadu Legislative Assembly from 150-Musiri constituency, held in March, 1971 has failed to lodge an account of his election expenses in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate, even after the due notice has not given any reason or explanation for the failure and the Election Commission is further satisfied that he has no good reason or justification for such failure.

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri R. Govindarajan to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. TN/LA/150/71 (26)]

भारत निर्वाचन आयोग

नई दिल्ली, 2 नवम्बर, 1972

आदेश

का.आ. 4108.—यतः, निर्वाचन आयोग का समाधान हो गया है कि मार्च 1971 को हुए तमिलनाडु विधान सभा के लिए निर्वाचन के

लिए 150-मुसिरी निर्वाचन-क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री आर. गोविन्दराजन, डाकघर इडुमलाई, लालगुडी तालुक, जिला तिरुचिरापल्ली लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा आपीक्षित रीति से अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे हैं;

और, यतः उक्त उम्मीदवार ने, उसे सम्बन्धित सूचना किये जाने पर भी, अपनी इस असफलता के लिए कोई कारण अधवा स्पष्टीकरण नहीं किया है, और, निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है;

अतः अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्द्वारा उक्त श्री आर. गोविन्दराजन को संसद के किसी भी सदन के या किसी राज्य की विधान-सभा अधवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरीक्षित घोषित करता है।

[सं. त. ना.नि.व. स./150/71(26).]

ORDER

S.O. 4109.—Whereas the Election Commission is satisfied that Shri S. Kandaswamy, S/o Shri Sengamalam, Colony No. 2, Dalmiapuram, Lalgudi Taluk, Tiruchirappalli District, Tamil Nadu, a contesting candidate for election to the Tamil

Nadu Legislative Assembly from 157-Lalgudi assembly constituency, held on March, 1971 has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder :—

And whereas, the said candidate, even after the due notice has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri S. Kandaswamy to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. TN/LA/157/71 (24)]

आवृत्ति

का.आ. 4109.—यतः, निर्वाचन आयोग का समाधान हो गया है कि मार्च 1971 को हुए तमिलनाडु विधान सभा के लिए निर्वाचन के लिए 157-लालगुडी निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री एस. कंडास्वामी सुपुत्र श्री सैंगमालम, कालोनी न. 2, हालीमियापुरम लालगुडी तालुक, जिला तिरुचिरापल्ली (तमिलनाडु) लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक सूचना दिए जाने पर भी, अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है, और, निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है ;

अतः अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री एस. कंडास्वामी को संसद के किसी भी सदन के या किसी राज्य की विधान-सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरर्हित घोषित करता है ।

[सं. त. ना.वि. स./157/71 (24).]

ORDER

S.O. 4110.—Whereas the Election Commission is satisfied that Shri P. Ravanam, S/o Shri Pelaniandy, Vinayagapuram, H/o Sembarai, Thinniyam, P.O. Kattur, (Via) Lalgudi Taluk, Tiruchirapalli District, a contesting candidate for election to the Tamil Nadu Legislative Assembly from 157-Lalgudi assembly constituency, held on March, 1971 has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder ;

And whereas, the said candidate, even after the due notice has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure.

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri P. Ravanam to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. TN/LA/157/71 (25)]

आवृत्ति

का.आ. 4110.—यतः, निर्वाचन आयोग का समाधान हो गया है कि मार्च, 1971 को हुए तमिलनाडु विधान सभा के लिए 157-लालगुडी निर्वाचन-क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री पी. रावनन सुपुत्र श्री पेलानियान्द, विनायागापुरम, सेम्बराई का माजरा, थिन्नियाम डाकघर काटूर (वाया) लालगुडी तालुक, जिला तिरुचिरापल्ली लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन

बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक सूचना दिए जाने पर भी, अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है, और, निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है ;

अतः अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री पी. रावनन को संसद के किसी भी सदन के या किसी राज्य की विधान-सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरर्हित घोषित करता है ।

[सं. त. ना.वि. स./157/71 (25)]

The 3rd November, 1972

ORDER

S.O. 4111.—Whereas the Election Commission is satisfied that Shri S. Murugiah Pillai, 24/D-I, Town Station Road, Tiruchirapalli, (Tamil Nadu), a contesting candidate for election to the Tamil Nadu Legislative Assembly from 159-Tiruchirapalli—I constituency, held in March, 1971 has failed to lodge an account of his election expenses within the time and in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder :—

And whereas, the said candidate, even after the due notice has not given any reason or explanation for the failure and the Election Commission is further satisfied that he has no good reason or justification for such failure.

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri S. Murugiah Pillai to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. TN/LA/159/71 (27)]

By Order,

A. N. SEN, Secy.

दिनांक, 3 नवम्बर, 1972

आवृत्ति

का.आ. 4111.—यतः, निर्वाचन आयोग का समाधान हो गया है कि मार्च, 1971 को हुए तमिलनाडु विधान सभा के लिए निर्वाचन के लिए 159-तिरुचिरापल्ली 1 निर्वाचन-क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री एस. मुरुगयाह पिल्लई, 24/डी-1 टाउन स्टेशन रोड, तिरुचिरापल्ली (तमिलनाडु) लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित रीति से अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक सूचना दिए जाने पर भी, अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है, और, निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है ;

अतः अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री एस. मुरुगयाह पिल्लई को संसद के किसी भी सदन के या किसी राज्य की विधान-सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरर्हित घोषित करता है ।

[सं. त. ना.वि. स./159/71 (27)]

आवृत्ति से,

ए. एन. सैन, सचिव ।

New Delhi, the 23rd October, 1972

ORDER

S.O. 4112.—Whereas the Election Commission is satisfied that Shri Maddukuri Brahmanandam, Daravaram (V) Kovvuru Taluk, West Godavari District, Andhra Pradesh, a contesting candidate for the general election to the Andhra Pradesh Legislative Assembly from 72-Kovvuru constituency, has failed to lodge an account of his election expenses at all required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, after considering the representation made by the said candidate, the Election Commission is further satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Maddukuri Brahmanandam to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. AP-LA/72/72]

नई दिल्ली, 23 अक्टूबर, 1972

आदेश

क्र.आ. 4112.—यतः निर्वाचन आयोग का समाधान हो गया है कि आन्ध्र प्रदेश विधान सभा के लिए साधारण निर्वाचन के लिए 72-कोय्यूरु निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री मद्दुकुरी ब्रह्मानन्दम, ग्राम दरावरम, कोय्यूरु तालुक, जिला पश्चिम गोदावरी, आन्ध्र प्रदेश लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का काई भी लेखा दाखिल करने में असफल रहे हैं,

और, यतः, उक्त उम्मीदवार द्वारा दिये गये अभ्यावेदन पर विचार करके के पश्चात्, निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है,

अतः अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री मद्दुकुरी ब्रह्मानन्दम को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[सं. आ. प्र.वि. स./72/72.]

आदेश से,

बी. एन. भारद्वाज, सचिव।

New Delhi, the 2nd December, 1972

S.O. 4113.—In pursuance of sub-section (2) (b) of section 116C of the Representation of the People Act, 1951, the Election Commission hereby publishes the Judgment dated the 11th September, 1972 of the Supreme Court of India, in Civil Appeal No. 2004 of 1971 against the judgment dated the 4th October, 1971 of the Madhya Pradesh High Court at Jabalpur in Election Petition No. 3 of 1971.

[No. 82/MP/3/71]

By Order

B. N. BHARADWAJ, Secy.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION.
CIVIL APPEAL NO. 2004 OF 1971.

Prahladas Khandelwal Appellant
VS

Narendra Kumar Salave Respondent

JUDGMENT

Grover, J.

This is an appeal from a judgment of the Madhya Pradesh High Court in an election petition filed by the appellant Prahladas Khandelwal, one of the candidates for the Mid-term election to the Lok Sabha from the Betul Parliamentary Constituency No. 26 in the State of Madhya Pradesh, challenging the election of the respondent Narendra Kumar Salave—the returned candidate.

Some of the material dates may be noticed. The notification calling for the election was issued on January 27, 1971. The last date for filing the nomination paper was February 3, 1971; the scrutiny was to take place on February 4, 1971. The election was to be actually held on March 4, 1971 and the election result was to be declared on March 11, 1971.

The appellant filed his nomination paper on February 2, 1971. An acknowledgement of the receipt of the nomination paper was given by the Assistant Returning Officer. The Assistant Returning Officer gave a certificate under Art. 84 of the Constitution that the appellant had been administered the oath, as required under that Article. In this certificate there was a mention of 26th Betul Parliamentary Constituency. According to the evidence of the Assistant Returning Officer Shri S. K. Sharma R.W. 2, in the nomination paper which the appellant filed there was no mention of the Parliamentary Constituency from which he was contesting the election. This defect was pointed out to him by the Assistant Returning Officer but it appears that the appellant did not cure that defect. On February 4, 1971 which was the date fixed for scrutiny the nomination paper of the appellant was rejected by the Returning Officer Shri Komal Singh Thakur, Collector of Betul on the objection of one Goverdhandas. The ground given for rejection was that the name of the Constituency for which the appellant had filed the nomination paper was not mentioned therein. The Returning Officer held that owing to this defect which was of a substantial character the nomination paper was invalid.

The sole ground in the election petition filed by the appellant was that his nomination paper had been erroneously and wrongly rejected by the Returning Officer. In paragraph 6 it was stated that a blank nomination form had been purchased by him from the Election Office, Betul. All the details mentioned in the form were properly filled in. There was no separate space left in the form to mention the name of the Constituency. It was asserted that there was difference between the nomination form in Hindi and in English and even if the name of the Constituency was necessary to be mentioned, the Assistant Returning Officer should have got it filled up under proviso to S.33(4) of the Representation of People Act 1951. In other paragraphs of the petition it was pleaded that the certificate relating to the oath clearly contained a mention of the 26th Betul Parliamentary Constituency and, therefore, the Returning Officer was in a position to know from which Constituency the appellant was contesting the election. It was claimed that the alleged defect was not of a substantial character and the nomination paper could not have been rejected by the Returning Officer.

The respondent resisted the election petition on the ground, *inter alia*, that there was no defect in the nomination form supplied to the appellant. The omission to mention the name of the Constituency was a defect of substantial character. It was denied that it was the duty of the Assistant Returning Officer to get the substantial defect in the nomination form rectified. The sole issue which arose for decision was whether the nomination paper of the appellant had been wrongly rejected. The High Court gave the following findings:

(1) The nomination paper in Hindi (Ext. P-2) is the authoritative text of the form prescribed under the Act and the rules made thereunder;

(2) Neither the name nor the number of the Constituency was mentioned in the nomination paper, (Ext. P-2).

(3) The omission to mention the name of the Constituency was a defect of a substantial character.

(4) The Returning Officer was not enjoined under the law to go beyond the nomination paper and to find out for which Constituency a particular candidate had been nominated.

(5) The statutory requirements of the Election Law have to be strictly applied. As the nomination paper of the appellant was found to be defective, the defect being of a substantial character the Returning Officer was justified in rejecting it. Apart from that the appellant did not get the defect rectified even though the same had been pointed out to him by the Asstt. Returning Officer.

The first question that has to be determined is whether the nomination form which was supplied was misleading or defective and for that reason it was not possible to fill in the name of the Parliamentary Constituency from which the appellant was contesting the election. Section 2(1)(g) of the Conduct of Elections Rules, 1961 gives the meaning of the word "Form". It means a Form appended to the rules and in respect of any election in a state includes a translation thereof in any of the languages used for official purposes of the State. Rule 4 provides that every nomination paper presented under sub-s. (1) of s.33 shall be completed in such one of the Forms 2A to 2E as may be appropriate. Form 2A relates to the nomination paper to be filed for election to the House of the people. According to s.5(1) of the Official Languages Act 1963 a translation in Hindi published under the authority of the President in the Official Gazette on or after the appointed day, inter alia, of any order, rule regulation or bye-Law issued under the Constitution or under any Central Act shall be deemed to be the authoritative text thereof in Hindi.

Form 2A as prescribed by the Conduct of Elections Rules 1961 in English is as follows:

"FORM 2A

I nominate as a candidate for election to the House of the People from the.....Parliamentary Constituency.
Candidates' name.....His postal address.....
.....His name is entered in S.No..... in
Part No.....of the electoral roll for
Assembly constituency comprised within).....
Parliamentary constituency Date.....

(Signature of Proposer).

I, the above mentioned....."

The nomination form in Hindi used in the Mid-term Elections 1971 begins with the word "Main" (I). Then there is a blank space which is followed by these words.

संसदार्थ निर्वाचन क्षेत्र से लोक सभा के लिए अभ्यर्थी के रूप में
निम्नलिखित को निर्दिष्ट करता हूँ :-

अभ्यर्थी का नाम..... उसका पता.....
उसका नाम..... संसदार्थ निर्वाचन क्षेत्र.....

If the form were to be read in the same way as if it were in the English language an impression is likely to be created that after the word "I" the proposer has to fill in his own name as was actually done in the present case in Ext. P-2. But any one familiar with the Hindi language would not read it that way and the blank space in the context, it will be understood, is meant for filling in the name of the Parliamentary Constituency. If that is not done the name of the Constituency for which the candidate is being nominated cannot find any mention in the material part of the form. It could never be contemplated that the official translators who are presumed to be fully conversant with the Hindi language would have translated the English form in such a way as to leave out the name of the Parliamentary Constituency altogether for which the candidate is being proposed. It may be mentioned that to an ordinary person a wrong impression may be conveyed that after the word "I" he has to give his own name but even if he gives his own name he can indicate the name of the Parliamentary Constituency thereafter which would make the form complete in every respect. It appears that the Election Commission of India addressed a letter, Ext. R-4, to the

Secretary, Official Language Legislative Commission saying that the Hindi translation of Form 2A appeared to be defective in some respects and it was suggested that in paragraph 1 of the Form as shown in Ext. R-5 after the word "Main" (I) in Hindi the name of the Parliamentary Constituency must be mentioned. Indeed it had been pointed out in a judgment of the Allahabad High Court in *Kashl Prasad (1) v Harigen Ram & Another* that the Hindi Form might have caused some confusion as there also a similar defect appeared as in Ext. P-2 here and the name of the Constituency had not been mentioned. The court held that since the name of the Constituency was not mentioned the defect was of a substantial nature and the Returning Officer should have rejected the nomination paper. But as stated before it was pointedly mentioned that the Hindi form might have caused some confusion and the proposer would have been well advised in consulting some competent person before filling it in. Unfortunately it appears and that is supported by the evidence of Shri Komal Singh Returning Officer that the amendment proposed by the Election Commission of India was not given effect to although certain other amendments in the Form were made in accordance with the procedure prescribed by the Act and the Rules. The appellant has not been able to show any error in the conclusion of the High Court that the Form Ext. P-2 was the prescribed Form under the Act and the Rules and the same had been sent for the purpose of the election in question by the Chief Electoral Officer, Madhya Pradesh, to the Returning Officer Shri Komal Singh.

In the Election Petition the sole grievance of the appellant was that there was no separate space in the nomination form where the name of the Constituency could be mentioned. It was not suggested that the proposer, whose name was Ajudhia Prasad or the appellant had been misled in any way by the language of the Hindi Form. The appellant who gave evidence as P.W. 1 deposed that he had himself filled up the nomination form Ext. P-2 and got it signed by his proposer. There was no place for mentioning the name of the Constituency and therefore it was not mentioned. The appellant is not only a law graduate but has also worked as Civil judge for some years and resumed practice in January 1968. Shri S. K. Sharma the Assistant Returning Officer to whom the nomination paper was handed over gave evidence as P.W. 2. He stated that he had told the appellant that the name of the Constituency should be mentioned but the latter replied that there was no such space for writing the name of the Constituency in the nomination paper. Shri Sharma further stated, "I again told him that after the word 'Main' (I) in the nomination paper the name of the Constituency should be mentioned and you would realise the same if you would minutely read the form. Thereupon the petitioner said 'I know my own job'. The learned trial judge has believed this evidence and nothing has been shown why it should not have been so believed. We concur with the High Court that the form on which the nomination of the appellant was made (Ext. P-2) was the one which had been statutorily prescribed and that there was a complete omission to mention the name of the Parliamentary Constituency for which the appellant was being nominated as a candidate. Further more the Assistant Returning Officer had drawn the attention of the appellant to this omission and yet the defect was not cured. This was done notwithstanding the fact, as will be presently seen, that where the defect is of a substantial character and is not of the nature contemplated by the Act and the Rules it is not the duty of the Returning Officer to get this defect rectified or omission completed.

The next question is whether the omission to mention the name of the 26th Betul Parliamentary Constituency in Ext. P-2 was a defect of a substantial character by reason of which the nomination paper must be rejected by the Returning Officer. Section 33 deals with the presentation of the nomination paper and requirements for a valid nomination. It has to be presented after being completed in the prescribed form and signed by the candidate and by an elector of the Constituency as proposer. Sub-section 4 of that section is to the following effect:

"On the presentation of a nomination paper, the returning Officer shall satisfy that the names and electoral roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral rolls".

1. Election Petition No. 44 of 1967 decided on January 19, 1968.

Section 36 deals with scrutiny of nominations. Sub-s. (2) thereof provides that the Returning Officer shall examine the nomination papers and decide all objections which may be made to any nomination and may, either on such objection or on his own motion after a summary inquiry, reject the nomination paper on the ground given in clauses (a), (b) and (c). Clause (b) is "that there has been a failure to comply with any of the provisions of section 33 or section 34. Sub-section (4) furnishes the key to the point under consideration. According to it the Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character. The proviso to rule 4 may also be noticed. It says that a failure to complete or defect in completing the declaration as to symbols in a nomination paper in Form 2A or Form 2B shall not be deemed to be a defect of a substantial character within the meaning of sub-s. (4) of s.36. It is thus clear that in the statute and the rules those defects have been indicated for which the nomination paper cannot be rejected and the Returning Officer has to permit the correction of those defects [vide proviso to s.33(4) of the Act and Rule 4 of the Rules]. But s.36(4) clearly contemplates that where the defect is of a substantial character the Returning Officer is not enjoined to have it rectified and he has to reject that nomination paper. The matter is not *res integra* and is settled by a series of decisions of this court. We need refer only to two of such decisions, viz, *Rattan Anmol Singh & another v Atma Ram & Others*⁽¹⁾ and *Ram Dayal V Brihram Singh & Others*⁽²⁾. In the first case it was laid down in categorical terms that s.36 is mandatory and enjoins the Returning Officer to refuse any nomination when there has been any failure to comply with any of the provisions of s.33. The only jurisdiction the Returning Officer has at the scrutiny stage is to see whether the nominations are in order and to hear and decide objection. He cannot at that stage remedy essential defects or permit them to be remedied. It is not open to him to reject a nomination paper on the ground of a technical defect which is not of a substantial character. But he cannot remedy that defect. He must leave it as it is. If it is technical and non-substantial it will not matter. In the second case the following observations at page 533 are noteworthy:

"The requirement under s.33(1) of the Act that nomination shall be signed by the candidate and by the proposer is mandatory. Signing, whenever signature is necessary, must be in strict accordance with the requirements of the Act and where the signature cannot be written it must be authorised in the manner prescribed by the Rules. Attestation is not a mere technical or unsubstantial requirement within the meaning of s.36(4) of the Act and cannot be dispensed with. The attestation and the satisfaction must exist at the stage of presentation and omission of such an essential feature may not be subsequently validated at the stage of scrutiny any more than the omission of a candidate to sign at all could have been."

In this case the earlier decision in *Rattan Anmol Singh's*⁽¹⁾ case was followed.

There can be no manner of doubt that in the present case there has been a failure to comply with the provisions of s.33 inasmuch as the name of the Constituency was not stated in the nomination paper which, therefore, could not be treated as having been completed in the prescribed form as required by s.33(1) of the Representation of the People Act. This defect was essentially of a substantial character and did not fall within those provisions where the Returning Officer is enjoined either to get the defect rectified or ignore it. It was not the duty of the Returning Officer at the stage of the scrutiny to draw the attention of the appellant to the aforesaid substantial defect for the purpose of getting the same cured. The Returning Officer was fully justified in rejecting the nomination paper.

The appeal fails and it is dismissed. Parties will bear their own costs.

A copy each of this judgment should be sent to the Election Commission, India, as also the Secretary, Ministry of Law, for drawing their attention to the observations with

(1) 1955(1) S.C.R. 481

(2) 1970(1) S.C.R. 530

regard to the nomination paper 2A (in Hindi version) prescribed for nomination of a candidate for election to the House of the People and the desirability of accepting the suggestion made by the Election Commission in its letter dated August 24, 1968, to the Secretary, Official Languages (Legislative) Commission, New Delhi, being Exhibit R-7 in the above case or adding explanatory notes in the prescribed form in Hindi Language.

A. N. GROVER, J.
M. H. BEG, J.
A. K. MUKHERJEA, J.

September 11, 1972.

MINISTRY OF FINANCE (Department of Banking)

New Delhi, the 4th December, 1972

S.O. 4114.—In exercise of the powers conferred by the Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (i) of section 11 of the said Act shall not apply to the Darjeeling District Central Co-operative Bank Ltd., Kalimpong for the period from 1st March, 1971 to 14th July, 1971.

[No. F. 8-1/72-AC]

K. BAVANI, Under Secy.

वित्त मंत्रालय
(बैंकिंग विभाग)

नई दिल्ली, 4 दिसम्बर, 1972

का.आ. 4114.—बैंकिंग विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार भारतीय रिजर्व बैंक की सिफारिश पर एतद्वारा घोषित करती है कि उक्त अधिनियम की धारा 11 की उप-धारा (i) के उपबन्ध 1 मार्च, 1971 से 14 जुलाई, 1971 तक की अवधि के लिए दार्जीलिंग डिस्ट्रिक्ट सेंट्रल को-ऑपरेटिव बैंक लिमिटेड, कलिम्पोंग पर लागू नहीं होंगे।

[सं. एफ. 8-1/72-ए. सी.]

क. बवानी, अवर सचिव

MINISTRY OF FOREIGN TRADE

(Office of the Joint Chief Controller of Imports and Exports)

Bombay, the 18th May, 1972

ORDER

S.O. 4115.—Licences Nos. P/A/8025580, P/A/8025581 and P/A/8025582 all dated 9th March, 1971 of the value of Rs. 10,000 each for import of M.S.B.P./C.R.C.A. Sheets below 5 mm. were issued to M/s. New Pralhad Iron Industries, Tilak Road, Aurangabad subject to the condition as under:—

"That all items of goods imported under this licence shall be used only in the licence holder's factory at the address shown in the application against which the licence is issued and the purpose for which the licence is issued or may be proposed in the factory shall be sold to any other party or utilised or permitted to be issued in any other manner. The goods so processed in another factory, shall however be utilised in the manufacturing processes undertaken by the licensee. The licensee shall maintain a proper account of consumption and utilisation of goods imported against the licence in the prescribed manner and produce such account to the sponsoring authority or any other concerned authority within such time as may be specified by such authority."

2. Thereafter, a show cause notice No. 1/82/71/EP/Enf/198, dated 27th September, 1971 was issued asking them to show cause within 15 days as to why the said licences in their favour should not be cancelled on the ground that they have not taken any convincing and effective steps to start the unit in terms of Clause 9, sub-clause (cc).

3. In response to the aforesaid show cause notice, M/s. New Pralhad Iron Industries, Aurangabad had by their letter dated 2nd November, 1971 furnished detailed explanation as follows:—

- (i) The licences in question have been obtained as actual consumers.
- (ii) The licences have been issued on submission of C.A. certificate and as per actual production during the preceding year.
- (iii) They have already received possession of plot No. B-13 in Aurangabad Industrial Area, Near Railway Station and made firm arrangement for factory premises.
- (iv) They are engaged in production since long.

4. According to the report received by this office from the Jt. Director of Industries, Aurangabad, the unit, M/s. New Pralhad Iron Industries, was registered on 2nd January, 1970 and the production was started from the same date and hence it is not clear how M/s. New Pralhad Iron Industries have shown consumption of Rs. 6,00,000 during the period from 1st April, 1969 to 31st March, 1970 in the Chartered Accountant's certificate submitted with their application for import licence. The Jt. Director of Industries, Aurangabad has further reported that in their import application for AM-1969-1970 M/s. New Pralhad Iron Industries have shown consumption as "Nil".

5. The undersigned has carefully examined the said representation and has come to the conclusion that the consumption claimed by M/s. New Pralhad Iron Industries during the year 1969-70 on the basis of which the above mentioned licences were obtained is doubtful. As the unit was registered with the Directorate of Industries on 2nd January, 1970 the contention that they have been in production since long cannot be accepted.

6. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licences in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under clause 9 sub-clause (cc) of the Import (Control) Order, 1955 hereby cancel the licences Nos. 8025580, 8025581 and 8025582 all dated 9th March, 1971 for Rs. 10,000 each issued in favour of M/s. New Pralhad Iron Industries, Aurangabad.

[No. 1/82/71/EP/Enf]

N. BANERJI, Dy Chief Controller.

विदेश व्यापार मंत्रालय

(संयुक्त-मूल्य निर्यात, आयात-निर्यात का कार्यालय)

बम्बई, 18 मई, 1972

आवेश

फा.आ. 4115.—सर्वश्री न्यू प्रहलाद आयर्न इंडस्ट्रीज, तिलक रोड, औरंगाबाद को 5 मि.मी. से कम से कम एस.एस. बा.पी/सी.आर.सी. ए. शीट्स के आयात के लिए लाइसेंस सं. पी/ए./8025580, पी. ए. 8025581 और पी.ए./8025582 सब का दिनांक 9-3-1971 है और प्रत्येक का मूल्य 10,000 रुपये है, निम्नलिखित शर्तों के अधीन जारी किये गये थे:—

“कि इस लाइसेंस के अधीन आयात किए गए माल की सब मर्दों का उपयोग केवल लाइसेंसधारी के उस कारखाने

में किया जाएगा जिसका पता उस आवेदन पत्र में दिया गया है जिसके आधार पर यह लाइसेंस जारी किया गया है और माल का उपयोग उसी उद्देश्य के लिए किया जाएगा जिसके लिए लाइसेंस जारी किया गया है अथवा निर्माण करने वाले दूसरे एकक के कारखाने में माल संसोधित किया जा सकता है। परन्तु उसका कोई भाग दूसरी पार्टी को न तो बेचा जाएगा न दूसरी पार्टी द्वारा उपयोग किया जाएगा और न किसी दूसरे तरीके से उपयोग करने की अनुमति दी जाएगी। लेकिन दूसरे निर्माण एकक के कारखाने में इस प्रकार संसोधित किए गए माल का उपयोग लाइसेंसधारी द्वारा नियंत्रित निर्माण क्रिया में किया जाएगा। लाइसेंसधारी लाइसेंस के आधार पर आयात किए गए माल के उपभोग और उपयोग का उचित लेखा निधीरित रीति से रखेगा और लेखों को प्रायोजक प्राधिकारी या किसी दूसरे सम्बद्ध प्राधिकारी को ऐसे समय के भीतर प्रस्तुत करेगा जो उस प्राधिकारी द्वारा निर्दिष्ट किया जाए।

2. इसके बाद, एक कारण बताओ नोटिस सं. 1/82/71/ई पी/एन्फ/198 दिनांक 27.9.1971 उनके यह पृष्ठों पर जारी किया गया था कि 15 दिनों के भीतर वे इसका कारण बताएँ कि उनके जारी किए गए उक्त लाइसेंस इस आधार पर क्यों न रद्द कर दिये जाएँ क्योंकि धारा 9 उप-धारा (सी सी) की शर्तों के अनुसार उन्होंने यूनिट चालू करने के लिए विश्वासनीय और प्रभावी कचम नहीं उठाए।

3. पूर्वाक्त कारण बताओ नोटिस के प्रत्युत्तर में सर्वश्री न्यू प्रहलाद आयर्न इंडस्ट्रीज औरंगाबाद ने अपने पत्र दिनांक 2.11.1971 द्वारा निम्नलिखित विस्तृत स्पष्टीकरण प्रस्तुत किया:—

- (1) विषयाधीन लाइसेंस वास्तविक उपभोक्ताओं की हसियत से प्राप्त किए गए हैं।
- (2) लाइसेंस सनदी लेखापाल से प्रमाणपत्र प्रस्तुत करने पर और पिछले वर्ष के दौरान वास्तविक उत्पादन के आधार पर जारी किए गए हैं।
- (3) उन्होंने औद्योगिक क्षेत्र औरंगाबाद में रेलवे स्टेशन के पास प्लॉट नं. बी 13 पर पहले ही अधिकार कर लिया है और कारखाने के स्थान के लिए निश्चित व्यवस्था करली है।
- (4) वे काफी समय से उत्पादन कार्य में लगे हुए हैं।

4. संयुक्त निदेशक उद्योग, औरंगाबाद से इस कार्यालय द्वारा प्राप्त रिपोर्ट के अनुसार, यूनिट, सर्वश्री न्यू प्रहलाद आयर्न इंडस्ट्रीज 2.1.1970 की पंजीकृत की गई थी और इसी तिथि से उत्पादन प्रारम्भ हुआ था और इसलिए यह स्पष्ट नहीं है कि सर्वश्री न्यू प्रहलाद आयर्न इंडस्ट्रीज ने आयात लाइसेंस के लिए अपने आवेदन-पत्र के साथ प्रस्तुत किए गए सनदी लेखापाल के प्रमाण पत्र में 1.4.1969 से 31.3.1970 तक की अवधि के दौरान 6,00,000 रुपये का उपभोग कैसे दिखाया है। संयुक्त निदेशक, उद्योग, औरंगाबाद ने यह भी सूचना दी है कि सर्वश्री न्यू प्रहलाद आयर्न इंडस्ट्रीज ने अप्रैल-मार्च 1969-70 के लिए अपने आयात आवेदन पत्र में उपभोग “कुछ नहीं” के रूप में दिखाया है।

5. अधोहस्ताक्षरी ने उक्त अभ्यावेदन की ध्यानपूर्वक जांच कर ली है और इस निर्णय पर पहुंचा है कि 1969-1970 वर्ष के दौरान सर्वश्री न्यू प्रहलाद आयर्न इंडस्ट्रीज द्वारा वाचा किया गया उपभोग जिसके आधार पर उपर्युक्त लाइसेंस प्राप्त किए गए थे, संदेहात्मक है। क्योंकि यूनिट 2.1.1970 के उद्योग निदेशालय में पंजीकृत हुई थी। इसलिए उनका यह तर्क कि वे काफी समय से उत्पादन करते रहे हैं, स्वीकार नहीं किया जा सकता।

6. पूर्वोक्त पैरा में जो कुछ बताया गया है उसका ध्यान में रखते हुए अधोहस्ताक्षरी संतुष्ट हैं कि विषयाधीन लाइसेंस रद्द कर दिए जाने चाहिए या अप्रभावी समीपित कर दिए जाने चाहिए। इसलिए, अधोहस्ताक्षरी, आयात (नियंत्रण) आदेश, 1955 की धारा 9 उपधारा (सी सी) में दिए गए अधिकारों का प्रयोग करते हुए सर्वश्री न्यू प्रहलाद आयरन इंस्टीट्यूट को प्रत्येक 10,000 रु. के लिए जारी किए गए लाइसेंस सं. 8025580, 8025581 और 8025582 सबका दिनांक 9-3-1971 को एतद् द्वारा रद्द करता है।

[संख्या: 1/82/71/ई पी/एन्क/72]

एन. बनर्जी, उप मुख्य नियंत्रक

Madras, the 26th September, 1972

ORDER

SUB :—Cancellation of Customs Purposes copy of licence No. P/S/1780392/C/XX/42/M/33.34 dated the 28th March, 1972.

S.O. 4116.—M/s. Sabre Optic, 173, Thambikaliamman Koil Street, Salem-1 were issued a licence bearing No. P/S/1780392/C/XX/42/M/33.34 dated 28th March, 1972, for April/March, 1972 period for import of Rough Blanks other than bifocal blanks to a value of Rs. 2,463.

The firm have now applied for a duplicate copy of the Customs Purpose copy of the licence in question on the ground that the original has been misplaced. In support of their contention they have filed an affidavit.

I am satisfied that the original Customs Purpose copy of the licence in question has been misplaced and a duplicate copy of the same be issued to the firm.

The original Customs Purpose of licence is hereby cancelled.

[No. P. 46/267/AM. 72/SSLJ]

M. F. R. BILJI, Dy. Chief Controller

For Jt. Chief Controller

मद्रास, दिनांक 26 सितम्बर, 1972

आदेश

विषय :—लाइसेंस सं. पी/एस/1780392/सी/एक्स एक्स/42/एम/33-34 दिनांक 28-3-72 की सीमाशुल्क प्रयोजन प्रति को रद्द करना।

का.आ. 4116.—सर्वश्री सेंसर आपीटक, 173, थम्बिकालियामन कोइल स्ट्रीट, सलेम-1 को 2,463 रु. मूल्य के बाइफोकल ब्लैंक्स से भिन्न रफ ब्लैंक्स के आयात के लिए अप्रैल/मार्च, 1972 अवधि के लिए लाइसेंस सं. पी/एस/1780392/सी/एक्स एक्स/42/एम/33-34 दिनांक 28-3-72 जारी किया गया था।

अब फर्म ने विषयाधीन लाइसेंस की सीमाशुल्कप्रयोजन प्रति की अनुमति के लिए इस आधार पर आवेदन किया है कि मूल सीमाशुल्क प्रयोजन प्रति अस्थानस्थ हो गई है। अपने तर्क के समर्थन में उन्होंने एक शपथ पत्र दाखिल किया है।

मैं संतुष्ट हूँ कि विषयाधीन लाइसेंस की मूल सीमाशुल्क प्रयोजन प्रति अस्थानस्थ हो गई है और फर्म को इसकी अनुमति जारी की जाए।

लाइसेंस की मूल सीमाशुल्क प्रयोजन प्रति एतद् द्वारा रद्द की जाती है।

[सं. पी 46/267/ए एम. 72/एस एस आई. आई.]

एम. एफ. आर. बिजली, उप मुख्य नियंत्रक
कुल संयुक्त मुख्य नियंत्रक।

New Delhi, the 12th April, 1972

CANCELLATION ORDER

S.O. 4117.—M/s. Bharat Engineering Works, B-IX-292, Rari Mohalla, Ludhiana were granted licence No. P/S/1726317 dated 24th September, 1971 for Rs. 3,000 only for import of P. & M. Tools other than banned & restricted as per AM-72 Red Book ol. I, Tapered Roller Bearings other than those specified in Appendix 14(6)(a) & 14(6)(b) of AM-72 Red Book. They have applied for issue of duplicate Customs & Exchange purposes copies of the licence on the ground that the original Custom & Exchange purposes copies have been misplaced without having been registered at Customs Authority and unutilized at all.

2. The applicant has filed an affidavit on stamped paper in support of their contention as required under para 312(2) read with Appendix 8 of ITC Hand Book of Rules and Procedure, 1971. I am satisfied that the original Customs purposes & Exchange control purposes copies have been misplaced.

3. In exercise of the powers conferred on me under clause 9(cc) Imports (Control) Order, 1955, dated 7th December, 1955 as amended upto date, I order the cancellation of the Customs & Exchange purposes copies of the Licence No. P/S/1726317 dated 24th September, 1971.

4. The applicant's case will now be considered for the issue of duplicate licence in accordance with para 312(2) of I.T.C. Hand book of Rules & Procedure, 1971.

[F. No. P/B-64(N)/AM-72/AU-PB./CLA]

D.S. MORKRIMA, Dy. Chief Controller,

For Jt. Chief Controller.

नई दिल्ली, 12 अप्रैल, 1972

आदेश

का.आ. 4117.—सर्वश्री भारत इंजीनियरिंग वर्क्स, बी-9-292, राड़ी मोहल्ला, लुधियाना को अप्रैल-मार्च, 1972 की रैंड बुक वा. 1 के अनुसार निबंध तथा प्रतिबंधित से भिन्न पी. एस. टूल्स, अप्रैल-मार्च, 1972 की रैंड बुक के परिशिष्ट 14(6)(ए) तथा 14(6)(बी) में विनिर्दिष्ट से भिन्न टैपेड रोलर बियरिंग्स के आयात के लिए 3000 रुपये मूल्य का एक लाइसेंस संख्या पी/एस/1726317 दिनांक 24-9-71 प्रदान किया गया था। उन्होंने लाइसेंस की सीमाशुल्क निकासी प्रति और मुद्रा विनिमय नियंत्रण प्रति की अनुमतिपत्रों के लिए इस आधार पर आवेदन किया है कि मूल सीमाशुल्क निकासी प्रति और मुद्रा विनिमय नियंत्रण प्रति सीमाशुल्क प्राधिकारी से पंजीकृत कराए बिना और बिल्कुल उपयोग किए बिना अस्थानस्थ हो गई हैं।

2. आवेदक ने अपने तर्क के समर्थन में आयात व्यापार नियंत्रण नियम तथा प्रक्रिया हैंड बुक, 1971 के परिशिष्ट 8 के साथ पढ़े जाने वाले पैरा 312(2) के अंतर्गत यथा अपेक्षित एक शपथ पत्र दाखिल किया है। मैं संतुष्ट हूँ कि मूल सीमाशुल्क निकासी प्रति और मुद्रा विनिमय नियंत्रण प्रति अस्थानस्थ हो गई हैं।

3. अद्यतन यथा संशोधित आयात (नियंत्रण) आदेश, 1955 दिनांक 7-12-1955 की धारा 9(सी सी) के अंतर्गत प्रदत्त अधिकारों का प्रयोग करते हुए मैं लाइसेंस सं. पी/एस/1726317 दिनांक 24-9-71 की सीमाशुल्क निकासी प्रति और मुद्रा विनिमय नियंत्रण प्रति रद्द करने का आदेश देता हूँ।

4. अब आवेदकों के मामले पर आयात व्यापार नियंत्रण नियम तथा प्रक्रिया हैंड बुक, 1971 के पैरा 312(2) के अनुसार लाइसेंस की अनुमति जारी करने के लिए विचार किया जाएगा।

[सं. पी/बी. 64(एन)/ए एम-72/ए यू-पी बी/सी एल ए]

डी. एस. मोरक्रिमा, उप मुख्य नियंत्रक,
कुल मुख्य नियंत्रक।

New Delhi, the 25th August, 1972

ORDER

S.O. 4118.—M/s. Shri Automobile Industries, Vishwakarma Industrial Estate, Jaipur were granted actual users licence Nos. P/S/1713152 & P/S/1713153 both dated 30th March, 1972 for Rs. 11,400 each issued on GCA & UK respectively valid up to 31st March, 1973 for the import of Wire Mesh, Filter paper, Synthetic Resin bimetal Strips and Ball Bearings etc. They have applied for the duplicate copy of both the copies of the said licences on the ground that the original copies of the said licences have not been received by them till to date and seem to have been either misplaced or wrongly delivered. It is further stated by the firm that original licences were, therefore, not registered with any Customs House and were not utilised at all.

In support of this declaration the applicant firm have filed an affidavit duly attested by Notary Public, Jaipur stating that the original licences have not been received by them till date and seen to have been either misplaced or wrongly delivered.

I am satisfied that the original licences No. P/S/1713152 and P/S/1713153 dated 30th March, 1972 valid up to 31st March, 1973 have not been received by the party seems to have either misplaced or wrongly delivered.

The original licences are cancelled.

[No. P/S-18(N)/AM.72/AU-Raj & Adhoc/CLA/2102]

D. S. MOKKRIMA, Dy. Chief Controller

नई दिल्ली, दिनांक 23 अगस्त, 1972

आवेदना

का.आ. 4118.—सर्वश्री आटोमोबाइल इन्डस्ट्रीज, विश्वकर्मा इन्डस्ट्रियल इस्टेट, जयपुर को सामान्य मुद्रा क्षेत्र तथा यू. कै. से वायर मेश, फिल्टर कागज, सिन्थेटिक रेजिन बाइमेटल स्ट्रिप्स तथा बाल बियरिंग इत्यादि का आयात करने के लिए 11,400 रुपये के लिए क्रमशः लाइसेंस संख्याएं पी/एस/1713152 तथा पी/एस/1713153 दोनों का दिनांक 30-3-72 है और जो 31-3-73 तक वैध है, स्वीकृत किए गए थे। उन्होंने उपर्युक्त लाइसेंस की अनुरूप प्रतियों के लिए इस आधार पर आवेदन किया है कि उन्हें अभी तक मूल लाइसेंस प्राप्त नहीं हुए हैं और ऐसा जान पड़ता है कि या तो वे अस्थानस्थ हो गये हैं और या गलत ढंग से बांटे गए हैं। आगे यह बताया गया है कि इसलिए मूल लाइसेंस किसी भी सीमाशुल्क कार्यालय में पंजीकृत नहीं करवाए गए थे और उनका बिलकुल उपयोग नहीं किया गया था।

इस तर्क के समर्थन में आवेदक ने नोटरी पब्लिक, जयपुर द्वारा विधिपूर्वक साक्ष्यकृत एक शपथपत्र यह बताते हुए प्रस्तुत किया है कि उन्हें आज तक मूल लाइसेंस प्राप्त नहीं हुए हैं और ऐसा जान पड़ता है कि या तो वे अस्थानस्थ हो गए हैं और या गलत ढंग से बांटे गए हैं।

मैं संतुष्ट हूँ कि फर्म द्वारा अभी तक लाइसेंस संख्याएं पी/एस/1713152 तथा पी/एस/1713153 दोनों का दिनांक 30-3-72 है और जो 31-3-73 तक वैध है, प्राप्त नहीं हुए हैं और लगता है कि वे या तो अस्थानस्थ हो गए हैं या गलत ढंग से बांटे गए हैं।

मूल लाइसेंस रद्द किए जाते हैं।

[सं. पी/एस-18(एन)/ए.एम. 72/एच-राज एंड तदर्थ/सी एल ए 2102.]

डी. एस. मोरक्रिमा, उप-मुख्य नियंत्रक

(Office of the Chief Controller of Imports and Exports)

New Delhi, the 23rd November, 1972

ORDER

S.O. 4119.—M/s. Heavy Engineering Corporation Ltd., Ranchi were granted import licence No. P/D/2188072/S/GN/42/H/29-30 dated 18th March, 1972 worth Rs. 7,73,555 for import of Raw materials/Components as per list attached and subsequently its value was reduced by Rs. 57,500 to read as Rs. 7,16,055 (Rupees seven lakhs, sixteen thousand and fiftyfive only).

It has now been reported by the firm that original Custom copy of the above captioned licence has been misplaced/lost. The firm have requested the issue of a Duplicate Custom copy for full value Rs. 7,16,055 as the licence has not been utilised.

In support of their request the applicant has furnished an affidavit as per I.T.C. Rules. The undersigned is satisfied that the Custom copy of licence No. P/D/2188072/GN/42/H/29-30 dated 18th March, 1972 has been misplaced/lost and directs that a duplicate Custom purpose copy of the licence in question may be issued to them. The original Custom copy is hereby cancelled.

[F. No. Mach-H-1(9)/AM-70/RM-4]

A. K. SARKAR, Dy Chief Controller

(मुख्य नियंत्रक, आयात-निर्यात का कार्यालय)

नई दिल्ली, 23 नवम्बर, 1972

आवेदना

का.आ. 4119.—सर्वश्री हवी इंजीनियरिंग कारपोरेशन लि., रांची को संलग्न सूची के अनुसार कच्चे माल/संघटकों के आयात के लिए 7,73,555 रुपये मूल्य का एक आयात लाइसेंस संख्या : पी/डी/2188072/एस/जी एन/42/एच/29-30, दिनांक 18-3-72 प्रदान किया गया था और बाद में इसका मूल्य 57,500 रुपये घटाकर 7,16,055 रुपये (सात लाख सोलह हजार पचपन रुपये मात्र) कर दिया गया था।

अब फर्म द्वारा यह सूचना दी गयी है कि उपर्युक्त लाइसेंस की मूल सीमाशुल्क निकासी प्रति अस्थानस्थ हो गयी/खो गयी है। क्योंकि लाइसेंस का उपयोग नहीं किया गया है इसलिए फर्म ने सीमाशुल्क निकासी प्रति की अनुरूप 7,16,055 रुपये के पूरे मूल्य के लिए जारी करने के लिए आवेदन किया है।

अपने आवेदन के समर्थन में आवेदक फर्म ने आयात व्यापार नियंत्रण नियमों के अनुसार एक शपथपत्र प्रस्तुत किया है। अधो-हस्ताक्षरी संतुष्ट है कि लाइसेंस संख्या : पी/डी/2188072/एस/जी एन/42/एच/29-30, दिनांक 18-3-72 की सीमाशुल्क निकासी प्रति अस्थानस्थ हो गयी/खो गयी है और निवेश देता है कि फर्म को विषयाधीन लाइसेंस की सीमाशुल्क निकासी प्रति की अनुरूप जारी की जाए। मूल सीमाशुल्क निकासी प्रति एतद् द्वारा रद्द की जाती है।

[सं. मँक एच-1(9)/ए.एम-70/आर एम-4.]

ए. कै. सरकार, उप-मुख्य नियंत्रक

(Office of the Deputy Chief Controller of Imports and Exports)

Bangalore, the 12th October, 1972

ORDER

SUB:—Cancellation of Customs Purposes Copy of licence No. P/S/1674057/C/XX/39/X/31.32 dated 2nd April, 1971 for Rs. 5,000.

S.O. 4120.—M/s. Modern Industrial Enterprises, 33/17, Makkala Basavanna Temple Street, Nagarthpet, Bangalore-2, were granted import licence No. P/S/1674057/C/XX/39/X/31.32., dated 2nd April, 1971 for Rs. 5,000 for the import of Aromatic Chemicals, Natural Essential Oils and Resinoids. They have now applied for duplicate copy of Customs Purposes Copy of the above licence on the ground that the original of the above Customs Purposes Copy of licence has

been lost/misplaced without having been registered with any Customs Authority and not utilised at all, and that the duplicate copy of Customs Purposes Copy of above licence now required is for the full value of the licence viz., Rs. 5,000.

In support of the above contention the application has filed an affidavit. I am satisfied that the original Customs Purposes Copy of the above licence has been lost/misplaced and direct that a duplicate copy of Customs Purposes Copy of above licence should be issued to the applicant. The Original Customs Purposes Copy of the licence is hereby cancelled.

[No. ITC/SSI/C. 551/2610/A.M. 71/NP]

K. JAYARAMAN, Dy. Chief Controller

(उप-मुख्य निर्यातक, आयात-निर्यात का कार्यालय)

बंगलौर, 12 अक्टूबर, 1972

आदेश

विषय :— लाइसेंस सं. पी/एस/1674057/सी/एक्स एक्स/39/एक्स/31-32 दिनांक 2-4-71 मूल्य 5000 रु. की सीमाशुल्क प्रयोजन प्रति को रद्द करने का आदेश।

का. आ. 4120.—सर्वश्री माडरन इंडस्ट्रीज एंटर प्राइजिज, 33/17 मक्काल बामबन्ना टेम्पल स्ट्रीट, नागरथपेट, बंगलौर को सुगंधित रसायनों, प्राकृतिक सुगंध तैलों और रेजिनायड्स के आयात के लिए 5000 रु. मूल्य का एक आयात लाइसेंस सं. पी/एस/1674057/सी/एक्स एक्स/39/एक्स/31-32 दिनांक 2-4-71 प्रदान किया गया था। अब उन्होंने उपर्युक्त लाइसेंस की सीमाशुल्क प्रयोजन प्रति की अनुलिपि के लिए इस आधार पर आवेदन किया है कि मूल सीमाशुल्क प्रयोजन प्रति किसी सीमाशुल्क प्राधिकारी से पंजीकृत कराए बिना और बिल्कुल उपयोग किए बिना खो गई/अस्थानस्थ हो गई है, और यह कि अब सीमाशुल्क प्रयोजन प्रति की अनुलिपि की आवश्यकता लाइसेंस के पूरे मूल्य अर्थात् 5000 रु. के लिए है।

उपर्युक्त तर्कों के समर्थन में आवेदक ने एक शपथ पत्र दाखिल किया है। मैं संतुष्ट हूँ कि उपर्युक्त लाइसेंस की मूल सीमाशुल्क प्रयोजन प्रति खो गई/अस्थानस्थ हो गई है और निर्देश देता हूँ कि इस की अनुलिपि आवेदक को जारी की जानी चाहिए। लाइसेंस की मूल सीमाशुल्क प्रयोजन प्रति एतद्वारा रद्द की जाती है।

[सं. आई.टी.सी./एस.एस. आई/सी-551/2610/ए.एम. 71/एन. पी.]

कै. जयरामन, उप-मुख्य निर्यातक

Kanpur, the 17th June, 1972

ORDER

S.O. 4121.—A licence No. P/S/1650792 dt. 15-7-1969 for the value of Rs. 3,00,000/- for the import of permissible spare parts as shown in appendix 32 of Import Trade Control Red Book Vol. I for April, 1969-March, 1970 licensing period was issued to M/s. Anand Iron & Steel Co., 103/286, Colonelganj, Kanpur.

Thereafter a show cause notice No. Enf. I (309)/1969/Kan/dt. the 14th December, 1971 was issued asking them to show cause within 15 (fifteen) days of the receipt of notice as to why the said licence in their favour should not be cancelled on the ground that they had no such factory in existence where they could use the goods imported against the licence and the licence was, therefore obtained by misrepresentation.

No reply to the said show cause notice has been received and the period stipulated for the same has expired.

17 G. of India/72—2.

The undersigned has carefully considered the case and has come to the conclusion that the licence in question was obtained by misrepresentation and the said M/s. Anand Iron and Steel Co., Kanpur have no factory in existence where the goods in question could have been utilized by them.

Having regard to what has been stated in the proceeding para the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of powers vested in him under clause 9 sub-clause(a) of the Imports (Control) Order, 1955 hereby cancels the licence No. P/S/1650792 dated the 15-7-1969 for Rs. 3,00,000/- issued in favour of the said M/s Anand Iron and Steel Co., Kanpur.

[No. ENF. I(309)/1969/KAN.]

कानपुर, 17 जून, 1972

आदेश

का. आ. 4121.—सर्वश्री आनन्द आयरन एंड स्टील कं., 103/286, कोलोनलगंज, कानपुर को लाइसेंस अधि अधि, 1969-मार्च, 1970 अधि की आयात व्यापार नियंत्रण रैड बुक वा 1 के परिशिष्ट 32 में यथा प्रदर्शित अनुसंध फालतू पुर्जों के आयात के लिए 3,00,000 रु. मूल्य के लिए एक लाइसेंस सं. पी/एस/1650792 दिनांक 15-7-1969 जारी किया गया था।

उसके पश्चात् उनको एक कारण बताओ नोटिस सं. इन्फ. 1(309)/1969/कान. दिनांक 14 दिसम्बर, 1971 यह पृष्ठते हुए जारी जारी किया गया था कि नोटिस की प्राप्ति के 15 दिनों के भीतर वे कारण बताए कि उनको जारी किया गया उक्त लाइसेंस इस आधार पर रद्द क्यों न कर दिया जाए कि उनका ऐसा कोई कारखाना नहीं है जिसमें लाइसेंस के आधार पर आयात किए गए माल का उपयोग किया जा सके और इसलिए लाइसेंस मिथ्यानिर्माण द्वारा प्राप्त किया गया था।

उक्त कारण बताओ नोटिस का कोई उत्तर प्राप्त नहीं हुआ है और उसके लिए निर्धारित अधि समाप्त हो चुकी है।

अधोहस्ताक्षरी ने मामले पर सावधानीपूर्वक विचार कर लिया है और इस निर्णय पर पहुंचा है कि विषयाधीन लाइसेंस मिथ्या-निरूपण द्वारा प्राप्त किया गया था और उक्त सर्वश्री आनन्द आयरन एंड कं., कानपुर का ऐसा कोई कारखाना नहीं है जिसमें विषयाधीन माल का उनके द्वारा उपयोग किया जा सका हो।

पूर्वोक्त पैरा में जो कुछ कहा गया है उसको ध्यान में रखते हुए अधोहस्ताक्षरी संतुष्ट है कि विषयाधीन लाइसेंस को रद्द किया जाना चाहिए था अप्रभावी किया जाना चाहिए। इसलिए, आयात (नियंत्रण) आदेश, 1955 की धारा 9 उपधारा (ए) के अंतर्गत प्रदत्त अधिकारों का प्रयोग कर अधोहस्ताक्षरी उक्त सर्वश्री आनन्द आयरन एंड स्टील कं., कानपुर को जारी किए गए लाइसेंस सं. पी/एस/1650792 दिनांक 15-7-1969 को एतद्वारा रद्द करता है।

[सं. ई.एन.एफ. 1 (309)/1969/कान.]

ORDER

S.O. 4122.—A licence No. P/S/1650793 dt. 15-7-69 for the value of Rs. 2,00,000/- for the import of permissible spare parts as shown in appendix 32 of Import Trade Control Red Book Vol. I for April, 1969-March, 1970 licensing period was issued to M/s. Srivastava Textiles Industries, 102/207, Colonelganj, Kanpur.

Thereafter a show cause notice No. Enf. I(309)/1969/Kan dt. the 14th December, 1971 was issued asking them to show cause within 15(fifteen) days of the receipt of notice as to why the said licence in their favour should not be cancelled on the ground that they had no such factory in existence where they could use the goods imported against the licence and the licence was, therefore obtained by misrepresentation.

No reply to the said show cause notice has been received and the period stipulated for the same has expired.

The undersigned has carefully considered the case and has come to the conclusion that the licence in question was obtained by misrepresentation and the said M/s. Srivastava Textile Industries, Kanpur have no such factory in existence where they could use the goods imported against the same.

Having regard to what has been stated in the proceeding para the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of powers vested in him under clause 9 sub-clause (a) of the Imports (Control) Order, 1955 hereby cancels the licence No. P/S/1650793 dated 15-7-1969 for Rs. 2,00,000/- issued in favour of the said M/s. Srivastava Textile Industries, Kanpur.

[No. ENF. I(309)/1969/KAN.]

आदेश

का. आ. 4122.—सर्वश्री श्रीवास्तव टेक्सटाइल्स इंडस्ट्रीज, 102/207, कोलोनलगेज, कानपुर को लाइसेंस अवधि अप्रैल, 1969-मार्च 1970 की आयात व्यापार नियंत्रण रैंड बुक के परिशिष्ट 32 में यथा प्रदर्शित अनुमय फालतू पुर्जों के आयात के लिए 2,00,000 रु. मूल्य का एक लाइसेंस सं. पी/एस/1650793 दिनांक 15-7-69 जारी किया गया था।

उसके पश्चात् उनको एक कारण बताओ नोटिस सं. एफ. 1 (309)/1969/कान दिनांक 14 दिसम्बर, 1971 यह पृष्ठते हुए जारी किया गया था कि नोटिस की प्राप्ति के 15 दिनों के भीतर वे कारण बताएं कि उनको जारी किया गया उक्त लाइसेंस इस आधार पर रद्द क्यों न कर दिया जाए कि उनका ऐसा कोई कारखाना अस्तित्व में नहीं है जहां पर लाइसेंस के आधार पर आयात किया गया माल उपयोग किया जा सके और इसीलिए लाइसेंस मिथ्या निरूपण द्वारा प्राप्त किया गया था।

उक्त कारण बताओ नोटिस के उत्तर में कोई उत्तर प्राप्त नहीं हुआ है और उत्तर के लिए निर्धारित अवधि समाप्त हो चुकी है।

अधोहस्ताक्षरी ने मामले पर सावधानीपूर्वक विचार कर लिया है और इस निर्णय पर पहुंचा है कि विषयाधीन लाइसेंस मिथ्या निरूपण द्वारा प्राप्त किया गया था और उक्त सर्वश्री श्रीवास्तव टेक्सटाइल इंडस्ट्रीज, कानपुर का ऐसा कोई कारखाना अस्तित्व में नहीं है जहां लाइसेंस के आधार पर आयात किए गए माल का उपयोग किया जा सके।

पूर्वोक्त पैरा में जो कुछ कहा गया है उसको ध्यान में रखते हुए अधोहस्ताक्षरी संतुष्ट है कि विषयाधीन लाइसेंस को रद्द किया जाना चाहिए या अन्यथा अभिभावित किया जाना चाहिए। अतः आयात (नियंत्रण) आदेश, 1955 की धारा 9 उपधारा (ए) के अंतर्गत प्रदत्त अधिकारों का प्रयोग कर अधोहस्ताक्षरी उक्त सर्वश्री श्रीवास्तव टेक्सटाइल इंडस्ट्रीज, कानपुर को 2,00,000 रु. के लिए जारी किए गए लाइसेंस सं. पी/एस/1650793 दिनांक 15-7-69 को एतद्द्वारा रद्द करता है।

[सं. ई. एन. एफ. 1(309)/1969/कान.]

ORDER

S.O. 4123.—A licence No. P/S/1632966 dt. 7-5-1969 for the value of Rs. 5,00,000/- for the import of permissible spare parts as shown in appendix 32 of Import Trade Control Red Book Vol. I for April, 1969-March, 1970 licensing period was issued to M/s. Niranjana Lal Tara Chand, 84/116, Karvalho Nagar, Kanpur.

Thereafter a show cause notice No. Enf. I (309)/1969/KAN/dt. the 14th December, 1971 was issued asking them to show cause within 15 (fifteen) days of the receipt of notice as to why the said licence in their favour should not be cancelled on the ground that they had no such factory in existence where they could use the goods imported against the licence and the licence was, therefore obtained by misrepresentation.

In their reply dt. 14-2-1972 the said M/s. Niranjana Lal Tara Chand, Kanpur emphasised that their factory was in existence and the imported goods had been utilized in the same.

The undersigned has carefully considered the case and has come to the conclusion that the licence was obtained by misrepresentation and there was no factory of their own where the imported goods in question could have been utilized by the said M/s. Niranjana Lal Tara Chand, Kanpur.

Having regard to what has been stated in the preceding para the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of powers vested in him under clause 9 sub-clause (a) of the Imports (Control) Order, 1955 hereby cancels the licence No. P/S/1632966 dated the 7-5-1969 for Rs. 5,00,000/- issued in favour of the said M/s. Niranjana Lal Tara Chand, Kanpur.

[No. ENF. I(309)/1969/KAN]

आदेश

का. आ. 4123.—सर्वश्री निरंजन लाल ताराचन्द, 84/116, कारवालहो नगर, कानपुर को लाइसेंस अवधि अप्रैल 1969-मार्च 1970 की आयात व्यापार नियंत्रण रैंड बुक वा. 1 के परिशिष्ट 32 में यथा प्रदर्शित अनुमय फालतू पुर्जों के आयात के लिए 5,00,000 रु. मूल्य का एक लाइसेंस सं. पी/एस/1632966 दिनांक 7-5-1969 जारी किया गया था।

उसके पश्चात् उनको एक कारण बताओ नोटिस सं. इन्फ 1(309)/1969/कान. दिनांक 14 दिसम्बर, 1971 यह पृष्ठते हुए जारी किया गया था कि नोटिस की प्राप्ति के 15 दिनों के भीतर वे कारण बताएं कि उनको जारी किया गया उक्त लाइसेंस इस आधार पर रद्द क्यों न कर दिया जाए कि उनका ऐसा कोई कारखाना अस्तित्व में नहीं है जहां पर लाइसेंस के आधार पर आयात किए गए माल का उपयोग किया जा सके और इसीलिए लाइसेंस मिथ्या निरूपण द्वारा प्राप्त किया गया था।

अपने पत्र दिनांक 14-2-1972 के उत्तर में सर्वश्री निरंजन लाल ताराचन्द, कानपुर ने इस बात पर बल दिया कि उनका कारखाना अस्तित्व में था और उसी में आयातित माल का उपयोग किया गया था।

अधोहस्ताक्षरी ने मामले पर सावधानी पूर्वक विचार किया है कि और इस निर्णय पर पहुंचा है कि लाइसेंस मिथ्या निरूपण द्वारा प्राप्त किया गया था और उनका अपना कोई कारखाना नहीं था जहां उक्त सर्वश्री निरंजन लाल ताराचन्द, कानपुर द्वारा विषयाधीन आयातित माल का उपयोग किया जा सका हो।

पूर्वाक्त पैरा में जो कुछ कहा गया है उसको ध्यान में रखते हुए अधोहस्ताक्षरी संतुष्ट है कि विषयाधीन लाइसेंस को रद्द किया जाना चाहिए या अन्यथा अप्रभावित किया जाना चाहिए। अतः आयात (नियंत्रण) आदेश, 1955 की धारा 9 उपधारा (ए) के अंतर्गत प्रदत्त अधिकारों का प्रयोग करते हुए अधोहस्ताक्षरी उक्त सर्वश्री निरंजन लाल ताराचन्द, कानपुर को 5,00,000 रु. के लिए जारी किए गए लाइसेंस सं. पी/एस/1632868 दिनांक 7-5-1969 को एतद् द्वारा रद्द करता है।

[संख्या: ई. एन. एफ. 1(309)/1969/कान.]

ORDER

S.O. 4124.—A licence No. P/S/1650791 dt. 15-7-69 for the value of Rs. 3,00,000/- for the import of permissible spare parts as shown in appendix 32 of Import Trade Control Red Book Vol. I for April, 1969-March, 1970 licensing period was issued to M/s. Waheed Ali Steel Trunk, 92/127, Heeraman Ka Purwa, Kanpur.

Thereafter a show cause notice no. Enf. I (309)/1969/KAN/dt. the 14th December, 1971 was issued asking them to show cause within 15 (fifteen) days of the receipt of notice as to why the said licence in their favour should not be cancelled on the ground that they had no such factory in existence where they could use the goods imported against the licence, and the licence was therefore, obtained by misrepresentation.

No reply to the said show cause notice has been received and the period stipulated for the same has expired.

The undersigned has carefully considered the case and has come to the conclusion that the said M/s. Waheed Ali Steel Trunk, Kanpur have no factory where they could utilize the goods imported against the licence in question and had, therefore, obtained the same by misrepresentation.

Having regard to what has been stated in the preceding para the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of powers vested in him under clause 9 sub-clause (a) of the Imports (Control) Order, 1955 hereby cancels the licence No. P/S/1650791 dated the 15-7-1969 for Rs. 3,00,000/- issued in favour of the said M/s. Waheed Ali Steel Trunk, Kanpur.

[No. ENF. I(309)/1969/KAN.]

आदेश

का. आ. 4124.—सर्वश्री वहीद अली स्टील ट्रंक, 92/127, हीरामन का पुरवा, कानपुर को लाइसेंस अर्थात् अप्रैल, 1969-मार्च, 1970 की आयात व्यापार नियंत्रण रैंड बुक वा. 1 के परिशिष्ट 32 में यथा प्रदर्शित अनुमत्य फालतू पुर्जों के आयात के लिए 3,00,000 रु. मूल्य का एक लाइसेंस सं. पी./एस./1650791 दिनांक 15-7-69 प्रदान किया गया था।

उसके पश्चात् उनको एक कारण बताओ नोटिस सं. इन्फ. 1(309)/1969/का दिनांक 14 दिसम्बर, 1971 यह पूछते हुए जारी किया गया था कि नोटिस की प्राप्ति के 15 दिनों के भीतर वे कारण बताएं कि उनको जारी किया गया उक्त लाइसेंस इस आधार पर रद्द क्यों न कर दिया जाए कि उनका ऐसा कोई कारखाना नहीं है जिसमें लाइसेंस के आधार पर आयात किए गए माल का उपयोग किया जा सके और इसलिए लाइसेंस मिथ्या निरूपण द्वारा प्राप्त किया गया था।

उक्त कारण बताओ नोटिस का कोई उत्तर प्राप्त नहीं हुआ और उसके लिए निर्धारित अवधि समाप्त हो चुकी है।

अधोहस्ताक्षरी ने मामले पर सावधानी पूर्वक विचार कर लिया है और इस निर्णय पर पहुँचा है कि उक्त सर्वश्री वहीद अली स्टील ट्रंक कानपुर का ऐसा कोई कारखाना नहीं है जहाँ वे विषयाधीन

लाइसेंस के आधार पर आयात किए गए माल का उपयोग कर सकें और इसलिए लाइसेंस मिथ्या निरूपण द्वारा प्राप्त किया गया था।

पूर्वाक्त पैरा में जो कुछ कहा गया है उसको ध्यान में रखते हुए अधोहस्ताक्षरी संतुष्ट है कि विषयाधीन लाइसेंस को रद्द किया जाना चाहिए या अन्यथा अप्रभावित किया जाना चाहिए। अतः आयात (नियंत्रण) आदेश, 1955 की धारा 9 उपधारा (ए) के अन्तर्गत प्रदत्त अधिकारों का प्रयोग कर अधोहस्ताक्षरी उक्त सर्वश्री वहीद अली स्टील ट्रंक, कानपुर को 3,00,000 रु. के लिए जारी किए गए लाइसेंस को एतद् द्वारा रद्द करता है।

[संख्या : ई एन फ 1(309)/1969/कान.]

ORDER

S.O. 4125.—A licence No. P/S/1633030 dt. 15-5-1969 for the value of Rs. 4,00,000/- for the import of permissible spare parts as shown in appendix 32 of Import Trade Control Red Book Vol. I for April, 1969-March, 1970 licensing period was issued to M/s. Govind & Co; Plastic Division, 80/79, Bansmandi, Kanpur.

Thereafter a show cause notice no. Enf. I (309)/1969/KAN/dt. the 14th December, 1971 was issued asking them to show cause within 15 (fifteen) days of the receipt of notice as to why the said licence in their favour should not be cancelled on the ground that they held no such factory in existence where they could use the goods imported against the licence and the licence was, therefore, obtained by misrepresentation.

In reply to the said show cause notice vide their letter dt. 19-1-1972 it was stated by the said M/s. Govind & Co; Plastic Division, Kanpur that their factory was in running condition and they were in existence and the imported goods in question were utilized in assembling re-fittings, servicing purposes.

The undersigned has carefully considered the case and has come to the conclusion that the licence in question obtained by misrepresentation and the said M/s. Govind & Co; Plastic Division, Kanpur had no factory in which the goods in question could be utilized by them after imports.

Having regard to what has been stated in the preceding para the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of powers vested in him under clause 9 sub-clause (a) of the Imports (Control) Order, 1955 hereby cancels the licence No. P/S/1633030 dt. the 15-5-1969 for Rs. 4,00,000/- issued in favour of the said M/s. Govind & Co; Plastic Division, Kanpur.

[No. ENF. I(309)/1969/KAN]

P. C. BHATNAGAR, Dy. Chief Controller

आदेश

का. आ. 4125.—सर्वश्री गोविन्द एंड कंपनी, प्लास्टिक डिवीजन, 80/79, बांस मंडी, कानपुर को लाइसेंस अर्थात् अप्रैल, 1969-मार्च, 1970 की आयात व्यापार नियंत्रण रैंड बुक वा. 1 के परिशिष्ट 32 में यथा प्रदर्शित अनुमत्य फालतू पुर्जों के आयात के लिए 4,00,000 रु. मूल्य का एक लाइसेंस सं पी/एस/1633030 दिनांक 15.5.69 जारी किया गया था।

उसके पश्चात् उनको एक कारण बताओ नोटिस सं. एन्फ. 1(309)/1969/कान दिनांक 14 दिसम्बर, 1971 यह पूछते हुए जारी किया गया था कि नोटिस की प्राप्ति के 15 दिनों के भीतर वे कारण बताएं कि उनको जारी किया गया उक्त लाइसेंस इस आधार पर रद्द क्यों न कर दिया जाए कि उनका ऐसा कोई कारखाना नहीं

हैं जिसमें लाइसेंस के आधार पर आयात किए गए माल का उपयोग किया जा सके और इसीलिए लाइसेंस मिथ्या निरूपण द्वारा प्राप्त किया गया था।

उक्त कारण बताओ नोटिस के उत्तर में उक्त सर्वश्री गोविन्द एंड कं., प्लास्टिक डिब्बीजन कानपुर ने अपने पत्र दिनांक 19-1-1972 में यह बताया था कि उनका कारखाना चालू था और उनकी फर्म अस्तित्व में थी और विषयाधीन आयात किया गया माल संयोजन करने, दुरुस्ती करने, सेवा कार्य के लिए उपयोग किया गया था।

अधोहस्ताक्षरी ने मामले पर माध्यानी पूर्वक विचार किया है और इस निर्णय पर पहुँचा है कि विषयाधीन लाइसेंस मिथ्या निरूपण द्वारा प्राप्त किया गया था और उक्त सर्वश्री गोविन्द एंड कं., प्लास्टिक डिब्बीजन, कानपुर का कोई कारखाना नहीं था जिसमें उनके द्वारा विषयाधीन माल का आयात करने के बाद उपयोग किया जा सके।

पूर्वोक्त पैरा में जो कुछ कहा गया है उसको ध्यान में रखते हुए अधोहस्ताक्षरी संतुष्ट हैं कि विषयाधीन लाइसेंस को खूद किया जाना चाहिए या अन्यथा अप्रभावित किया जाना चाहिए। अतः आयात (नियंत्रण) आदेश, 1955 की धारा 9 उप धारा (ए) के अंतर्गत प्रदत्त अधिकारों का प्रयोग कर अधोहस्ताक्षरी उक्त सर्वश्री गोविन्द एंड कं., प्लास्टिक डिब्बीजन, कानपुर को 4,00,000 रु. के लिए जारी किए गए लाइसेंस सं. पी/एस/1633030 दिनांक 15-5-69 को एतद्वारा रद्द करता है।

[सं. ई. एन. एफ. 1(309)/1969/कान.]

पी. सी. भटनागर, उप-मुख्य नियंत्रक।

[Kanpur, the 19th July, 1972]

ORDER

S.O. 4126.—The following licences for the import of Ball Bearings non-banned & non-restricted types and permissible types of Spherical and Taper Roller Bearings were issued to M/s. Lata Industries, 275 Sabun Godam, Baghpat Road, Meerut:—

- (i) P/S/1686308 dt. 26-3-1971 for Rs. 2500/-
- (ii) P/S/1686309 dt. 26-3-1971 for Rs. 1250/-
- (iii) P/S/1686310 dt. 26-3-1971 for Rs. 1250/-
- (iv) P/S/1688747 dt. 26-6-1971 for Rs. 2500/-
- (v) P/S/1688748 dt. 26-6-1971 for Rs. 1250/-

2. Thereafter a show cause notice No. Enf. II(90)/1971/KAN/6794 dt. 15-9-71 was issued asking them to show cause within fifteen days of the date of receipt of notice as to why the said licences in their favour should not be cancelled on the ground that their factory had closed down and the licences would not serve the purpose for which they were granted.

3. In response to the said show cause notice the said M/s. Lata Industries, Meerut vide their letter dated 17-1-1972 intimated that they had closed down and returned the above mentioned licences further stating that they had no use for them under the circumstances.

4. Having regard to what has been stated in the preceding paras the undersigned is satisfied that the licences in question should be cancelled or otherwise rendered ineffective. Therefore in exercise of powers vested in him under clause 9 sub clause (cc) of the Imports (Control) Order, 1955 dt. 7-12-1955 as amended from time to time hereby cancels the said licences nos. P/S/1686308, P/S/1686309; & P/S/1686310 all dt. 26-3-1971 and P/S/1688747 and P/S/1688748 all dated 26-6-1971 issued in favour of M/s. Lata Industries, 275, Sabun Godam, Baghpat Road, Meerut.

[No. ENF. II(90)/1971/KAN]

कानपुर, 19 जुलाई, 1972

आदेश

का. आ. 4126.—सर्वश्री लता इंडस्ट्रीज, 275, साबुन गोदाम, बागपत रोड, मेरठ को अप्रतिबंधित तथा बिना निषेध किस्म के बाल बेयरिंग तथा स्वीकृत किस्म के स्फेरिकल तथा टैपर रोलर बेयरिंग के आयात के लिए निम्नलिखित आयात लाइसेंस जारी किए गए थे:—

- | | | |
|-------------------|----------------|----------------|
| (1) पी/एस/1686308 | दिनांक 26-3-71 | मूल्य 2500 रु. |
| (2) पी/एस/1686309 | वही | मूल्य 1250 रु. |
| (3) पी/एस/1686310 | वही | मूल्य 1250 रु. |
| (4) पी/एस/1688747 | दिनांक 26-6-71 | मूल्य 2500 रु. |
| (5) पी/एस/1688748 | दिनांक 26-6-71 | मूल्य 1250 रु. |

तत्पश्चात् उन्हें एक कारण बताओ सूचना सं. ई.नं. 2(90)/1971 कान/6794 दिनांक, 15 सितम्बर, 1971 यह पृष्ठों पर जारी की गई थी कि उपर्युक्त कारण बताओ सूचना की पावती के 15 दिनों के भीतर वे कारण बताएं कि उनके नाम में जारी किए गए उपर्युक्त लाइसेंसों को क्यों न रद्द कर दिया जाना चाहिए और इन्होंने इस आधार पर कि उनका कारखाना बंद हो गया था और जिस उद्देश्य की पूर्ति के लिए लाइसेंस जारी किए गए थे उसे पूरा नहीं करेंगे।

उपर्युक्त कारण बताओ सूचना के प्रत्युत्तर में सर्वश्री लता इंडस्ट्रीज, मेरठ ने अपने पत्र दिनांक, 17 जनवरी, 1972 में यह सूचना दी कि उन्होंने अपना कारखाना बंद कर दिया था और उपर्युक्त लाइसेंसों को वापस भेज दिया था और उन्होंने आगे बताया कि ऐसी स्थिति में उनके लिए इन का कोई उपयोग नहीं था।

4 ऊपर की कीडिका में जो कुछ बताया गया है उसे ध्यान में रखते हुए अधोहस्ताक्षरी संतुष्ट हैं कि विषयाधीन लाइसेंस रद्द अथवा अप्रभावित किए जाने चाहिए। इसीलिए समस्त समय पर यथा संशोधित आयात (नियंत्रण) आदेश, 1955 दिनांक, 7 दिसम्बर, 1955 की धारा 9 उप धारा (सी.सी.) के अंतर्गत प्रदत्त अधिकारों का प्रयोग करते हुए अधोहस्ताक्षरी लाइसेंस संख्याएं पी/एस/1686308, पी/एस/1686309 तथा पी/एस/1686310 सभी का दिनांक, 26 मार्च, 1971 तथा पी/एस/1688747 तथा पी/एस/1688748 सभी का दिनांक, 26 जून, 1971 है और जो सर्वश्री लता इंडस्ट्रीज, 275 साबुन गोदाम, बागपत रोड, मेरठ को जारी किए गए थे, एतद्वारा रद्द करता है।

[संख्या : ई. फ. 2(90)/1971/कान]

ORDER

S.O. 4127.—The following licences for the import of Ball Bearings non-banned non-restricted types were issued to M/s. Navin Engg. Works (Regd.), Court Road, Muzaffarnagar:—

- (i) P/S/1657035 dt. 2-12-1970 for Rs. 5000/-
- (ii) P/S/1657036 dt. 2-12-1970 for Rs. 2500/-
- (iii) P/S/1657037 dt. 2-12-1970 for Rs. 2500/-

Thereafter a show cause notice no. Enf. II(151)/1971/18884 dt. 19-1-1972 was issued asking them to show cause within fifteen days of the date of receipt of notice as to why the said licences in their favour should not be cancelled on the ground that their factory had not been working satisfactorily and the licences would not serve the purpose for which they were granted.

No reply to the said show cause notice has been received so far and the period for reply as stipulated therein has expired.

The undersigned has carefully considered the case and has come to the conclusion that the said M/s. Navin Engg. Works (Regd.), Muzaffarnagar have avoided a reply as they have no defence to urge and that the licences will not serve the purpose for which they were granted.

Having regard to what has been stated in the preceding paras the undersigned is satisfied that the licences in questions should be cancelled or otherwise rendered in effective. Therefore, the undersigned, in exercise of powers vested in him under clause 9 sub clause(cc) of the Imports (Control) Order, 1955 dated 7-12-1955 as amended from time to time hereby cancels the licences Nos. P/S/1657035 dt. 2-12-1970, for Rs. 5000/-; P/S/1657036 dt. 2-12-1970 for Rs. 2500/- and P/S/1657037 dt. 2-12-1970 for Rs. 2500/- issued in favour of M/s. Navin Engg. Works (Regd.), Court Road, Muzaffarnagar.

[No. ENF. II(151)/1971/KAN]

O. N. ANAND, Dy. Chief Controller.

आवृत्ति

का. आ. 4127.—सर्वश्री नवीन इन्जी. वर्क्स (रजिस्टर्ड) कोर्ट रोड, मुजफ्फर नगर का अप्रतिबंधित तथा बिना निबंध किस्म के बाल बरियरिंग के आयात के लिए निम्नलिखित आयात लाइसेंस स्वीकृत किए गए थे :—

- (1) पी/एस/1657035 दिनांक 2-12-1970 मूल्य 5000 रु.
- (2) पी/एस/1657036 दिनांक 2-12-1970 मूल्य 2500 रु.
- (3) पी/एस/1657037 दिनांक 2-12-1970 मूल्य 2500 रु.

तत्पश्चात् उन्हें एक कारण बताओ सूचना सं. इन्फ. 2(90)/1971/1971/18884 दिनांक, 19 जनवरी, 1972 यह पूछते हुए जारी की गई थी कि 15 दिनों के भीतर वे कारण बताएं कि उनके नाम में जारी किए गए उक्त लाइसेंसों को क्यों न रद्द कर दिया जाना चाहिए और उन्हें इस आधार पर कि उनका कारखाना संतोषजनक कार्य नहीं कर रहा था और उपर्युक्त लाइसेंस जिस कार्य को पूरा करने के लिए जारी किए गए थे उसे पूरा नहीं करेंगे।

उक्त कारण बताओ सूचना का कोई प्रत्युत्तर प्राप्त नहीं हुआ है और उसमें देने के लिए दी गई निधिरित अधीन समाप्त हो गई है।

अधोहस्ताक्षरी ने मामले की भली-भांति जांच कर ली है और इस परिणाम पर पहुंचा है कि चूंकि उनके पास अपनी सफाई के लिए कुछ भी नहीं है इसलिए उन्होंने उत्तर देने में टाल-मटोल की है और लाइसेंस उस उद्देश्य को पूर्ति नहीं करेंगे जिनके लिए जारी किए गए थे।

ऊपर की कीटिका में जो कुछ कहा गया है उसे ध्यान में रखते हुए अधोहस्ताक्षरी संतुष्ट हैं कि विषयाधीन लाइसेंस रद्द अथवा अप्रभावित किए जाने चाहिए, इसलिए अधोहस्ताक्षरी समय-समय पर तथा संशोधित आयात (नियंत्रण) आदेश, 1955 दिनांक, 7 दिसम्बर, 1955 की धारा 9 उप-धारा (सी. सी.) के अंतर्गत प्रदत्त अधिकारों का प्रयोग कर लाइसेंस संख्या पी/एस/1657035 दिनांक 2 दिसम्बर, 1970 मूल्य 5,000 रु., पी/एस/1657036 दिनांक, 2 दिसम्बर, 1970 मूल्य 2,500 रु. तथा पी/एस/1657037 दिनांक, 2 दिसम्बर, 1970 मूल्य 2,500 रु. जो सर्वश्री नवीन इन्जी. वर्क्स (रजिस्टर्ड) कोर्ट रोड, मुजफ्फर नगर के नाम में जारी किए गए उन्हें एतद्वारा रद्द करता है।

[संख्या : इन्फ. 2(151)/1971/कान.]

ओ. एन. आनन्द, उप-मुख्य नियंत्रक

(Office of the Iron and Steel Controller)

Bombay, the 25th February, 1972

ORDER

SUB :— Cancellation of Customs Copy of Import Licence No. 8023355 dt. 7-11-70 issued for P.Q. MSBP/CRCA Sheets 1.6 m.m. and thinner valued Rs. 3,334/- to M/s. National Trunk Factory, Bombay.

S.O. 4128.—M/s. National Trunk Factory, 162, Kandori Chawl, Duncan Road, Bombay-8 were granted an import licence No. P/S/8023355/C/XX/37/B/29-30 dated 7-11-70 for import of P.Q. MSBP/CRCA Sheets of 1.6 mm and thinner for Rs. 3,334/- for the licencing period April-69/ March-70. They have applied for a duplicate copy of the custom copy on the ground that the original Custom copy has been lost or misplaced. It is further, stated by them that the original licence has not been utilised at all.

2. In support of this contention applicant has filed an affidavit on stamped paper duly attested by Presidency Magistrate, Bombay.

3. I am satisfied that the original Customs copy of licence No. 8023355 dt. 7-11-70 has been lost or misplaced and direct that duplicate of the Custom Copy of import licence for full unutilised value should be issued to the applicant. The above customs control copy of import licence is cancelled for full licence value.

[No. BL/25/M-42/29-30]

SMT. M. D'COSTA, Dy. Controller.

उप नियंत्रक, लोहा तथा इस्पात का कार्यालय

बम्बई, 24 फरवरी, 1972

आवृत्ति

विषय :— सर्वश्री नेशनल ट्रंक फैक्ट्री, बम्बई को 1.6 मि. मी. तथा इससे पतली पी. क्यू. एम एस बी पी/सी आर सी ए चट्टनों के लिए 3,334 रु. के लिए जारी किए गए आयात लाइसेंस सं. 8023355 दिनांक 7-11-70 की सीमाशुल्क प्रति को रद्द करना।

का. आ. 4128.—सर्वश्री नेशनल ट्रंक फैक्ट्री, 162, कन्दोरी चावल, डंकन रोड, बम्बई को लाइसेंस अधीन अप्रैल, 69-मार्च, 70 के दौरान 1.6 मि.मी. तथा इससे पतली पी. क्यू. एम. एस. बी. पी./सी. आर. सी. ए. चट्टनों के आयात के लिए 3,334 रु. के लिए एक आयात लाइसेंस सं. पी/एस/8023355/सी/एक्स एक्स/37/बी/29-30, दिनांक 7-11-70 प्रदान किया गया था। उन्होंने सीमाशुल्क प्रति की अनुलिपि के लिए इस आधार पर आवेदन किया है कि मूल सीमाशुल्क प्रति खो गई है या अस्थानस्थ हो गई है। उनके द्वारा आगे यह बताया गया है कि मूल लाइसेंस का कुछ भी उपयोग नहीं किया गया है।

2. इस तर्क के समर्थन में आवेदक ने प्रेसिडेंसी मजिस्ट्रेट, बम्बई द्वारा विधिवत् साक्ष्योक्त स्टाम्प पेपर पर एक शपथ पत्र दाखिल किया है।

3. मैं संतुष्ट हूँ कि लाइसेंस सं. 8023355, दिनांक 7-11-70 की मूल सीमाशुल्क प्रति खो गई है या अस्थानस्थ हो गई है और निर्देश देती हूँ कि आवेदक को बिना उपयोग किए आयात लाइसेंस के पूरे मूल्य के लिए सीमाशुल्क की अनुलिपि प्रति जारी की जानी चाहिए। आयात लाइसेंस की उपर्युक्त सीमाशुल्क नियंत्रण प्रति को लाइसेंस के पूरे मूल्य के लिए रद्द किया जाता है।

[सं. बी. एल./25/एम-42/29-30]

श्रीमती एम. डी. कोस्टा, उप नियंत्रक

MINISTRY OF PETROLEUM AND CHEMICAL

Baroda, the 30th November, 1972

S.O. 4129.—WHEREAS by the notification of Government of India as shown in the schedule appended hereto and issued under sub section (i) of section 6 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 the Right of User has been acquired in the lands specified in the schedule appended thereto for the transport of Petroleum from drill site SANAND-32 to SANAND-15 in Kalol oil field in Gujarat State.

AND WHEREAS the Oil & Natural Gas Commission has terminated the operations referred to in clause (i) of sub section (1) of section 7 of the said Act on 15-6-71.

NOW THEREFORE under Rule 4 of the Petroleum Pipelines (Acquisition of Right of User in land) Rules 1963, the Competent Authority hereby notified the said date as the date of termination of operation referred to above.

[No. PRODN/DDN/61(1)/72]

SCHEDULE

Termination of operation of Pipeline from D.S. Sanand—32 to Sanand—15

Name of Ministry	Village	S.O. No.	Date of publication in the Govt. Gazette of India	Date of termination of operation
Petroleum & Chemicals	Jethalaj	1069	13-5-71	15-6-71

पेट्रोलियम और रसायन मंत्रालय

बड़ौदा, 30 नवम्बर, 1972

का. आ. 4129.—यतः इस संलग्न अनुसूची में विनिर्दिष्ट और पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकारों का अर्जन) अधिनियम 1962 की धारा 6 की उपधारा (1) के अधीन प्रकाशित भारत सरकार की अधिसूचना द्वारा गुजरात राज्य के कलोल तेल क्षेत्र में ब्यधन स्थल, सानन्द 32 से सानन्द 15 तक पेट्रोलियम के परिवहन के लिए उस संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग का अधिकार अर्जित कर लिया गया है।

और यतः, तेल और प्राकृतिक गैस आयोग ने 15 जून, 1971 को उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (1) में निर्दिष्ट संक्रिया को पर्यवसित कर दिया है।

अब अतः पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकारों का अर्जन) नियमावली 1963 के नियम 4 के अधीन समक्ष प्राधिकारी उक्त तारीख को ऊपर निर्दिष्ट संक्रिया के पर्यवसान के रूप में एतद्वारा अधिसूचित करता है।

[संख्या : प्रोडक्शन/डी.डी.एन/61(1)/72]

अनुसूची

डी० एस० सानन्द 32 तक सानन्द 15 तक पाइपलाइन की संक्रिया का पर्यवसान

मंत्रालय का नाम	गाँव	सर्वेक्षण संख्या	भारत के राजपत्र में प्रकाशन की तारीख	संक्रिया के पर्यवसान की तारीख
पेट्रोलियम और रसायन	जैठलाज	1069	13-5-72	15-6-71

S.O. 4130.—WHEREAS by the notification of Government of India as shown in the schedule appended hereto and issued under sub section (i) of section 6 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 the Right of User has been acquired in the lands specified in the schedule appended thereto for the transport of Petroleum from drill site No. 142(KJI) to G.G.S. VII in Kalol oil field in Gujarat State.

AND WHEREAS the Oil & Natural Gas Commission has terminated the operations referred to in clause (i) of sub section (1) of section 7 of the said Act on 16-10-71.

NOW THEREFORE under Rule 4 of the Petroleum Pipelines (Acquisition of Right of User in land) Rules 1963, the Competent Authority hereby notified the said date of termination of operation referred to above.

[No. PRODN/DDN/61(1)/72]

SCHEDULE

Termination of operation of Pipeline from No. 142(KJI) to E.G.S. VII

Name of Ministry	Village	S.O. No.	Date of publication in the Govt. Gazette of India	Date of termination of operation
Petroleum & Chemicals	Titoda Uvarsad	1435	17-6-72	16-10-71

का. आ. 4130.—यतः इस संलग्न अनुसूची में विनिर्दिष्ट और पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकारों का अर्जन) अधिनियम, 1962 की धारा 4 का उपधारा (1) के अधीन प्रकाशित भारत सरकार की अधिसूचना द्वारा गुजरात राज्य के कलोल तेल क्षेत्र में ब्यधन स्थल संख्या 142(केजेआई) से जी.जी. एस. 7 तक पेट्रोलियम के परिवहन के लिए उस संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग का अधिकार अर्जित कर लिया गया है।

और यतः तेल और प्राकृतिक गैस आयोग ने 16 अक्टूबर, 1971 को उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (1) में निर्दिष्ट संक्रिया को पर्यवसित कर दिया है।

अब अतः पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकारों का अर्जन) नियमावली 1963 के नियम 4 के अधीन समक्ष प्राधिकारी उक्त तारीख को ऊपर निर्दिष्ट संक्रिया के पर्यवसान के रूप में एतद्वारा अधिसूचित करता है।

[संख्या प्रोडक्शन/डी.डी.एन/61(1)/72]

अनुसूची

डीएस 142 (केजेआई) से जी जी एस 7 तक पाइपलाइन की संक्रिया का पर्यवसान

मंत्रालय का नाम	गाँव	सर्वेक्षण संख्या	भारत के राजपत्र में प्रकाशन की तारीख	संक्रिया के पर्यवसान की तारीख
पेट्रोलियम और रसायन	टिटोडा उवरसद	1435	17-6-72	16-10-71

S.O. 4131.—WHEREAS by the notification of Government of India as shown in the schedule appended hereto and issued under sub section (i) of section 6 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 the Right of User has been acquired in the lands specified in the schedule appended thereto for the transport of Petroleum from drill site K-154 to G.G.S. V in Kalol oil field in Gujarat State.

AND WHEREAS the Oil & Natural Gas Commission has terminated the operations referred to in clause (i) of sub section (1) of section 7 of the said Act on 16-9-71.

NOW THEREFORE under Rule 4 of the Petroleum Pipelines (Acquisition of Right of User in land) Rules 1963, the Competent Authority hereby notified the said date as the date of termination of operation referred to above.

[No. PRODN/DDN/61(1)/72]

SCHEDULE

Termination of operation of pipellae from D.S.K.-154 to GGSV.

Name of Ministry	Village	S.O. No.	Date of publication in the Govt. Gazette of India	Date of termination of operation
Petroleum & Chemicals	Ola Isand	1434	17-6-72	16-9-71

का. आ. 4132.—यतः इस संलग्न अनुसूचि में विनिर्दिष्ट और पेट्रोलियम और पाइपलाइन (भूमि में उपयोग के अधिकारों का अर्जन) अधिनियम, 1962 की धारा 6 की उपधारा (1) के अधीन प्रकाशित भारत सरकार की अधिसूचना द्वारा गुजरात राज्य के कलोल तेल क्षेत्र में व्यधन स्थल के 154 से जी. जी. एस. 5 तक पेट्रोलियम के परिवहन के लिए उस संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग का अधिकार कर लिया गया है।

और यतः तेल और प्राकृतिक गैस आयोग ने 18 सितम्बर, 1971 को उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (1) में निर्दिष्ट संप्रक्रिया को पर्यवसित कर दिया है।

अब अतः पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकारों का अर्जन) नियमावली 1963 के नियम 4 के अधीन सक्षम प्राधिकारी उक्त तारीख को ऊपर निर्दिष्ट संप्रक्रिया के पर्यवसान के रूप में एतद्वारा अधिसूचित करता है।

[सं. डी.डी.एन./61(1)/72]

अनुसूची

डी एस के 154 से जी जी एस 5 तक पाइपलाइन की संप्रक्रिया का पर्यवसान

गन्ताव्य का नाम	गांव	सर्वेक्षण संख्या	भारत के राजपत्र में प्रकाशन की तारीख	संप्रक्रिया के पर्यवसान की तारीख
पेट्रोलियम और रसायन	ओला इसन्द	1434	17-6-72	16-9-71

S.O. 4132.—WHEREAS by the notification of Government of India as shown in the schedule appended hereto and issued under sub section (i) of section 6 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 the Right of User has been acquired in the lands specified in the schedule appended thereto for the transport of Petroleum from drill site TEMP, G.G.S. to PERM, G.G.S. III in Kalol oil field in Gujarat State.

AND WHEREAS the Oil & Natural Gas Commission has terminated the operations referred to in clause (i) of sub section (1) of section 7 of the said Act on 7-7-71.

NOW THEREFORE under Rule 4 of the Petroleum Pipelines (Acquisition of Right of User in land) Rules 1963, the Competent Authority hereby notified the said date as the date of termination of operation referred to above.

[No. PRODN/DDN/61(1)/72]

SCHEDULE

Termination of operation of Pipeline from Temp. G.G.S. to PERM. G.G.S. III

Name of Ministry	Village	S.O. No.	Date of publication in the Govt. Gazette of India	Date of termination of operation
Petroleum & Chemicals	Ambavapura	1068	13-5-72	7-7-71

का. आ. 4132.—यतः इस संलग्न अनुसूचि में विनिर्दिष्ट और पेट्रोलियम और पाइपलाइन (भूमि में उपयोग के अधिकारों का अर्जन) अधिनियम, 1962 की धारा 6 की उपधारा (1) के अधीन प्रकाशित भारत सरकार की अधिसूचना द्वारा गुजरात राज्य के कलोल तेल क्षेत्र में व्यधन अस्थाई जी. जी. एस. 3 तक पेट्रोलियम के परिवहन के लिए उस संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग का अधिकार अर्जित कर लिया गया है।

और यतः तेल और प्राकृतिक गैस आयोग ने 7 जुलाई, 1971 को उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (1) में निर्दिष्ट संप्रक्रिया को पर्यवसित कर दिया है।

अब अतः पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकारों का अर्जन) नियमावली 1963 के नियम 4 के अधीन सक्षम प्राधिकारी उक्त तारीख को ऊपर निर्दिष्ट संप्रक्रिया के पर्यवसान के रूप में एतद्वारा अधिसूचित करता है।

[संख्या प्रोडक्शन/डी.डी.एन./61(1)/72]

अनुसूची

अस्थाई जी जी एस से अस्थाई जी जी एस III तक पाइपलाइन की संप्रक्रिया का पर्यवसान

गन्ताव्य का नाम	गांव	सर्वेक्षण संख्या	भारत के राजपत्र में प्रकाशन की तारीख	संप्रक्रिया के पर्यवसान की तारीख
पेट्रोलियम और रसायन	अम्बवपुरा	1068	13-5-72	7-7-71

S.O. 4133.—WHEREAS by the notification of Government of India as shown in the schedule appended hereto and issued under sub section (i) of section 6 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 the Right of User has been acquired in the lands specified in the schedule appended thereto for the transport of Petroleum from drill site K. 151 to G.G.S. V in Kalol oil field in Gujarat State.

AND WHEREAS the Oil & Natural Gas Commission has terminated the operations referred to in clause (i) sub section (1) of section 7 of the said Act on 22-12-70.

NOW THEREFORE under Rule 4 of the Petroleum Pipelines (Acquisition of Right of User in land) Rules 1963, the Competent Authority hereby notified the said date as the date of termination of operation referred to above.

[No. PRODN/DDN/61(1)/72]

SCHEDULE

Termination of operation pipeline from D.S. K-151 to G.G.S. V

Name of Ministry	Village	S.O. No.	Date of publication in the Govt. Gazette of India	Date of termination of operation
Petroleum & Chemicals	Isand	1433	17-6-72	22-12-70

का. आ. 4133.—यतः इस संलग्न अनुसूची में विनिर्दिष्ट और पेट्रोलियम और पाइपलाइन (भूमि में उपयोग के अधिकारों का अर्जन) अधिनियम, 1962 की धारा 6 की उपधारा (1) के अधीन प्रकाशित भारत सरकार की अधिसूचना द्वारा गुजरात राज्य के कलोल तेल क्षेत्र में व्ययन स्थल के 151 से जी. जी. एस. 5 तक पेट्रोलियम के परिवहन के लिए उस संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग का अधिकार अर्जित कर लिया गया है।

और यतः तेल और प्राकृतिक गैस आयोग ने 22 दिसम्बर, 1970 को उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (1) में निर्दिष्ट संक्रिया को पर्यवसित कर दिया है।

अब अतः पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकारों का अर्जन) नियमावली 1963 के नियम 4 के अधीन सक्षम प्राधिकारी उक्त तारीख को ऊपर निर्दिष्ट संक्रिया के पर्यवसान के रूप में एतद्द्वारा अधिसूचित करता है।

[संख्या प्रोडक्शन/डी. डी. एन/61(1)/72]

यनुसूची

डी.एस. के 151 से जी.जी.एस. 5 तक पाइपलाइन की संक्रिया के पर्यवसान				
गंजालय का नाम	गांव	सर्वेक्षण संख्या	भारत के राजपत्र में प्रकाशन की तारीख	संक्रिया के पर्यवसान की तारीख
पेट्रोलियम रसायन	धौर	इमन्व	1433	17-6-72 22-12-70

S.O. 4134.—WHEREAS by the notification of Government of India as shown in the schedule appended hereto and issued under sub section (i) of section 6 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 the Right of User has been acquired in the lands specified in the Schedule appended thereto for the transport of Petroleum from drill site SANAND-28 to SANAND-15 in Kalol oil field in Gujarat State.

AND WHEREAS the Oil & Natural Gas Commission has terminated the operations referred to in clause (i) of sub-section (1) of section 7 of the said Act on 2-6-71.

NOW THEREFORE under Rule 4 of the Petroleum Pipelines (Acquisition of Right of User in land) Rules 1963, the Competent Authority hereby notified the said date as the date of termination of operation referred to above.

[No. PRODN/DDN/61(1)/72]

P. W. SHETHI, Competent Authority A under the Act, for Gujarat.

SCHEDULE

Termination of operation of pipeline from Sanand 15 D.S. Sanand-28 to 15

Name of Ministry	Village	S.O. No.	Date of publication in the Govt. Gazette of India	Date of termination of operation
Petroleum & Chemicals	Jethalaj	1067	13-5-72	2-6-71

का. आ. 4134.—यतः इस संलग्न अनुसूची में विनिर्दिष्ट और पेट्रोलियम और पाइपलाइन (भूमि में उपयोग के अधिकारों का अर्जन) अधिनियम, 1962 की धारा 6 की उपधारा (1) के अधीन प्रकाशित भारत सरकार की अधिसूचना द्वारा गुजरात राज्य के कलोल तेल क्षेत्र में व्ययन स्थल, सानन्द 28 से सानन्द 15 तक पेट्रोलियम के परिवहन के लिए उस संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग का अधिकार अर्जित कर लिया गया है।

और यतः तेल और प्राकृतिक गैस आयोग ने 2 जून, 1971 को उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (1) में निर्दिष्ट संक्रिया को पर्यवसित कर दिया है।

अब अतः पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकारों का अर्जन) नियमावली 1963 के नियम 4 के अधीन सक्षम प्राधिकारी उक्त तारीख को ऊपर निर्दिष्ट संक्रिया के पर्यवसान के रूप में एतद्द्वारा अधिसूचित करता है।

[संख्या प्रोडक्शन/डी. डी. एन/61(1)/72]

यनुसूची

डी एस सानन्द 28 से सानन्द 15 तक पाइपलाइन की संक्रिया का पर्यवसान

गंजालय का नाम	गांव	सर्वेक्षण संख्या	भारत के राजपत्र में प्रकाशन की तारीख	संक्रिया के पर्यवसान की तारीख
पेट्रोलियम रसायन	धौर	जैलाज	1067	13-5-72 2-6-71

[संख्या प्रोडक्शन/डी. डी. एन/61(1)/72]

प्र. म. शेट,

गुजरात के लिए अधिनियम के अन्तर्गत सहायक प्राधिकारी।

MINISTRY OF STEEL AND MINES

(IRON & STEEL CONTROL)

234/4, Acharya Jagdish Bose Road, Calcutta

Calcutta, the 25th November, 1972

ORDER

S.O. 4135 ESS COMM/RPDE/79:—In exercise of the powers conferred on me by Notification No. S.O. 1436 dated 18-4-67 under the Essential Commodities (Regulation of Productions Distribution for purposes of export) Order 1966, I hereby direct that the firm specified in Column 1 of the Table below shall sell the goods as specified in Column 2 there-against to the firm specified in the corresponding entry in Column 3 of the said table for purposes of manufacture of Engineering goods for export at

the price indicated there-against in Column 4 subject to the conditions enumerated in Column 5 of the said table.

Name of the firm	Specification
1	2
M/s. Indian Steel & Wire Products Ltd., Indranagar, Jamshedpur.	(i) H.B. Wire—2.764 M/T (ii) G.I. Wire—17.623 M/T Total 20.387 M/T (Twenty point three eighty seven M/Ton only)
Name of the exporter.	Price Condition
3	4 5
M/s. Nathmali Gir-dharilal, 11-A, Jatindra Mohan Avenue, Calcutta-6.	At current Market Rate. Supply should be made on export priority basis (i.e. a priority next to Defence).

[No. PR-V/5/4(7)/69]

By Order etc.,

T. GHOSH,

Director of Export Production and Iron & Steel Controller.

इस्पात और खान मंत्रालय
(लोहा और इस्पात निबंधन)
कलकत्ता, 25 नवम्बर 1972

आदेश

क्र० प्र० 4135 (ESS : COMM/RPDE/79) आवश्यक वस्तु (निर्यात के प्रयोजनों के लिये उत्पादन और वितरण का विनियमन) आदेश के अन्तर्गत अधिसूचना सं० S.O. 1436, दिनांक 18-4-67 के द्वारा प्रवृत्त शक्तियों के प्रयोग करने हुए मैं, एतद्वारा नीचे दिए गये नालिका के स्तम्भ 1 के फर्म की स्तम्भ 2 में उल्लिखित वस्तुओं को, स्तम्भ 3 में नामांकित फर्म को हजीनियरी वस्तुओं के उत्पादन तथा निर्यात हेतु स्तम्भ 4 में दिये गये मूल्य पर, स्तम्भ 5 में दिये हुये शर्त पर विधाय करने का आदेश देता हूँ।

फर्म का नाम	वस्तुओं का विस्तृत विवरण
1	2
मेसर्स इंडियन स्टील एण्ड वायर प्रोडक्ट्स लिमिटेड, इन्दरनगर, टाटानगर, गिरधारी	(i) एच० बी० वायर—2.764 एम० टी० (ii) जि० आई० वायर—17.623 „ मॉड : 20 387 „ (बीस दशमलव तीन घाट सात एम० टन सिर्फ)।

निर्यातक का नाम	मूल्य	शर्तें
3	4	5
नाथमल गिरधारी लाल 11, यलीन्द्र मोहन एवेन्यू, कलकत्ता-6।	सामान्य मूल्य जो माल के भुगतान के समय प्राथमिकता के आधार पर हो।	माल का भुगतान के आधार पर प्राथमिकता (अर्थात् ऐसी प्राथमिकता जो प्रतिरक्षा के माल के भुगतान के बाद हो) देनी होगी।

[सं० पी० आर० V/5/4(7)/69]

आज्ञा से इत्यादि

टी० घोष,

निर्यात उत्पादन निदेशक और लोहा तथा इस्पात निबंधक।

MINISTRY OF INDUSTRIAL DEVELOPMENT

New Delhi, the 25th November, 1972

ORDER

S.O. 4136.—In exercise of the powers conferred by Section 6 of the Industries (Dev. & Reg.) Act, 1951 (65 of 1951) read with Rules, 2, 4 and 5 of the Development Councils (procedural) Rules, 1952, the Central Government hereby appoints, for a period of two years with effect from the date of this Order, the following persons to be members of the Development Council for the scheduled industries engaged in the manufacture of production of electric motors and of machinery and equipment for the generation, transmission and distribution of electric energy (excluding house service meters and panel instruments) in place of members appointed under the Govt. of India, Ministry of Industrial Development Internal Trade & Company Affairs, (Deptt. of Industrial Development Order No. S.O./IDRA/6/5, dated 29th May, 1970, as amended from time to time, whose tenure of office has expired by the passing of time or otherwise.

Development Council for Heavy Electrical Industries

- Shri P. R. Deshpande, Managing Director, M/s. Crompton Greaves Ltd., Forbes Street, Bombay. **Chairman.**
- Shri B. N. Baliga, Chief (Power), Planning Commission, New Delhi. **Member**
- Shri A. K. Ghosh, Vice Chairman, C.W.P.C. Bikaner House, New Delhi. **Member**
- Shri T. V. Thadani, Director, Central Water & Power Commission, Bikaner House, New Delhi. **Member**
- Shri Ravi L. Kirloskar, Managing Director, M/s. Kirloskar Electric Co. Ltd., Bangalore-3. **Member**
- Shri S. Peer Mohammed, General Manager, M/s. Aluminium Industries Ltd., Kundra (Kerala). **Member**
- Shri N. J. Kamath, Joint Secretary, Ministry of Industrial Development, Udyog Bhavan, New Delhi. **Member**
(Alternate member).
Shri R. Krishnaswamy, Deputy Secretary, Min. of Industrial Development, New Delhi.
- Shri S. B. Mehta, Chief Engineer (P&P), Madhya Pradesh Electricity Board, P. N. No. 34, Jabalpur. **Member**
- Shri A. P. Mehta, Managing Director, Deepak Insulated Cable Corporation Ltd., Industry House, Bangalore. **Member**
- Shri U. V. Rao, General Manager, Larsen & Toubro Ltd., I. & T House, Ballard Estate, P. Box. No. 278, Bombay. **Member**
- Shri K. N. Ramaswamy, Industrial Adviser, Directorate General of Technical Development, Udyog Bhavan, New Delhi. **Member**
- Shri T. V. Balakrishnan, General Manager (Development), Bharat Heavy Electricals Ltd., 5, Parliament Street, New Delhi. **Member**

13. Shri K. M. Sinclair,
Chief Engineer,
Heavy Electricals (India) Ltd.,
Bhopal. Member
14. Shri N. Kothandapani, B.E.
Chief Engineer (Electricity),
Tamil Nadu Electricity Board,
Madras-2. Member
15. Dr. Vakil Ahmed,
Development Officer,
D.G.T.D., New Delhi Member Secretary
16. Shri S. K. Sen,
Chief Electricity Engineer,
Damodar Valley Corporation,
Bhabani Bhavan,
Calcutta-27. Member
17. Shri J. Desai,
Managing Director,
M/s. Kelvinators of India Ltd.,
19-A, Alipore Road, Delhi-6. Member

[No. EEI-19(18)/72.]

[No. IDRA/6/5]

R. KRISHNASWAMY, Deputy Secy.

ऑद्योगिक विकास मंत्रालय

नई दिल्ली, दिनांक 25 नवम्बर, 1972

आवृत्ति

का. आ. 4136.—उद्योग (विकास तथा विनियमन) अधिनियम, 1951 (1951 का 65) की धारा 6 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एच.एम. विकास परिषद् (कार्यविधि) नियम, 1952 के नियम 2, 4 और 5 के साथ पठते हुए, केन्द्रीय सरकार एतद्वारा भारत सरकार के ऑद्योगिक विकास, आंतरिक व्यापार तथा समवाय कार्य मंत्रालय (ऑद्योगिक विकास विभाग) के आवृत्ति सं. का. आ./आई. डी. आर. ए/6/5, दिनांक 29 मई, 1970 जिसे समय समय पर संशोधित किया गया, के अधीन नियुक्त किये गये सदस्यों के स्थान पर जिनका समय व्यतीत हो जाने से अथवा अन्यथा कार्यकाल समाप्त हो चुका है, आवृत्ति की तिथि से दो वर्षों की अवधि के लिये, निम्नलिखित व्यक्तियों के बिजली की मोटरों तथा विद्युत ऊर्जा जनित, पारेषण तथा वितरण हेतु, मशीन तथा उपकरण (घरों में काम आने वाले मीटरों और पैनल यंत्रों के छोड़ कर) के निर्माण अथवा उत्पादन से अनुसूचित उद्योगों की विकास परिषद् का सदस्य नियुक्त कर्ता है :—

भारी विद्युत् उद्योगों की विकास परिषद्

- (1) श्री पी. आर. देशपांडे,
प्रबंध निदेशक,
मै. काम्पटन ग्रीन्स लिमिटेड,
1, फोर्स स्ट्रीट, बंबई । अध्यक्ष
- (2) श्री बी. एन. बालिगा,
प्रमुख (बिजली)
योजना आयोग,
नई दिल्ली । सदस्य
- (3) श्री ए. के. घोष,
उपाध्यक्ष,
केन्द्रीय जल विद्युत आयोग,
बीकानेर हाउस,
नई दिल्ली । "

सदस्य

- (4) श्री टी. बी. थडानी,
निदेशक,
केन्द्रीय जल और विद्युत आयोग,
बीकानेर हाउस,
नई दिल्ली । सचिव
- (5) श्री रवि एल. किलॉस्कर,
प्रबंध निदेशक,
मै. किलॉस्कर इलेक्ट्रिक कं. लि.,
बंगलौर-3 । "
- (6) श्री एस. पीर मोहम्मद,
महाप्रबंधक,
मै. अल्युमिनियम इण्डस्ट्रीज लि.,
कुन्दा (कोरल) । "
- (7) श्री एन. जे. कामथ,
संयुक्त सचिव,
ऑद्योगिक विकास मंत्रालय,
उद्योग भवन, नई दिल्ली ।
वैकील्पक सदस्य
श्री आर. कृष्णास्वामी,
उपसचिव,
ऑद्योगिक विकास मंत्रालय,
नई दिल्ली ।
- (8) श्री एस. बी. मंहता,
मुख्य अभियंता (पी. एण्ड पी.),
मध्य प्रदेश बिजली बोर्ड,
पो. बा. नं. 34,
जबलपुर । "
- (9) श्री ए. पी. मंहता,
प्रबंध निदेशक,
दीप्क इन्सुलेंट कंवल कारपोरेशन लि.,
बंगलौर । "
- (10) श्री यू. बी. राव,
महाप्रबंधक,
लार्सन एण्ड ट्यूबो लिमिटेड,
एल. एण्ड टी. हाउस,
बेल्लार्ड एस्टेट, पो. बाक्स नं. 278,
बंबई । "
- (11) श्री के. एन. रामास्वामी,
ऑद्योगिक सलाहकार, तकनीकी विकास
का महानिदेशालय, उद्योग भवन,
नई दिल्ली । "
- (12) श्री टी. बी. बालकृष्णन,
महाप्रबंधक (विकास),
भारत हवी इलेक्ट्रिकल्स लि., 5 पार्लियामेंट
स्ट्रीट, नई दिल्ली । "
- (13) श्री के. एम. सिन्कलेयर,
मुख्य अभियंता, हवी इलेक्ट्रिकल्स
(इण्डिया) लि., भोपाल । "
- (14) श्री एन. कंदण्डपाणि, बी. ई.
मुख्य अभियंता (बिजली),
तामिलनाडु बिजली बोर्ड,
मद्रास-2 । "

- (15) डा. वकील अहमद, सदस्य
तकनीकी विकास का महानिदेशालय,
विकास अधिकारी,
नई दिल्ली।
- (16) श्री एस. कं. सेन, "
मुख्य बिजली अभियंता,
दामोदर घाटी निगम,
भवानी भवन, कलकत्ता-27।
- (17) श्री जे. देसाई, "
प्रबंध निदेशक,
मै. कौन्सिलनेटर्स आफ इण्डिया लि.,
19-ए, अलीपुर रोड, दिल्ली-6।

[सं. आई. डी. आर. ए./6/5]

आर. कृष्णास्वामी, उप सचिव।

MINISTRY OF AGRICULTURE

(Deptt. of Agriculture)

New Delhi, the 27th November, 1972

S.O. 4137.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules to amend the Veterinary Officer (Delhi Zoological Park) Recruitment Rules, 1962 namely:—

- (1) These rules may be called the Veterinary Officer (Delhi Zoological Park) Recruitment (Amendment) Rules, 1972.
- (2) They shall come into force on the date of their publication in the official Gazette.

2. In the Schedule to the Veterinary Officer (Delhi Zoological Park) Recruitment Rules, 1962 after the existing entry in column 11, the following entry shall be inserted, namely:—

“(Period of deputation three years, extendable by a further period of one year)”.

[No. J. 12015/2/72FD(WLF)]

RUP RAM, Under Secy.

कृषि मंत्रालय

(कृषि विभाग)

नई दिल्ली, 27 नवम्बर, 1972

का. आ. 4137.—राष्ट्रपति, संविधान के अनुच्छेद 309 के परन्तु द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए पशुचिकित्सा अधिकारी (दिल्ली चिड़ियाघर) भर्ती नियम, 1962 में संशोधन करने के लिए एतद्वारा निम्नलिखित नियम बनते हैं, अर्थात्:—

1. (1) इन नियमों का नाम पशुचिकित्सा अधिकारी (दिल्ली चिड़ियाघर) भर्ती (संशोधन) नियम, 1972 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. पशुचिकित्सा अधिकारी (दिल्ली चिड़ियाघर) भर्ती नियम, 1962 की अनुसूची में, स्तम्भ 11 में विद्यमान प्रविष्टि के पश्चात् निम्नलिखित प्रविष्टि अन्तःस्थापित की जाएगी, अर्थात्:—

“(प्रतिनियुक्ति की अवधि तीन वर्ष की होगी जो एक वर्ष की और अवधि के लिए बढ़ाई जा सकती है)”।

[मं. जे. 12015/2/72-एफ. डी. (ह्यूमन एं. एफ.)]

रूप राम, अवर सचिव।

MINISTRY OF SHIPPING AND TRANSPORT

(Transport Wing)

New Delhi, the 1st December, 1972

S.O. 4138.—In exercise of the powers conferred by sub-section (1) of section 5 of the Road Transport Corporations Act, 1950 (64 of 1960), the Central Government hereby appoints Shri Baleshwar Prasad, Lt. Governor, Delhi, as Chairman of the Delhi Transport Corporation and makes the following further amendment in the notification of the Government of India in the Ministry of Shipping and Transport No. S.O. 5083 dated the 3rd November, 1971, namely:—

(1) for item 1 and the entries relating thereto, the following item and entries shall be substituted, namely:—

“(1) Shri Baleshwar Prasad, Lt. Governor, Delhi”;

(2) for paragraph 2, the following paragraph shall be substituted, namely:—

“2. Shri Baleshwar Prasad, Lt. Governor, Delhi, shall be the Chairman of the Corporation.”

[No. 15-TAG(18)/72]

N. R. REDDY, Joint Secy.

नौवहन और परिवहन मंत्रालय

(परिवहन पक्ष)

नयी दिल्ली, 1 दिसम्बर, 1972

का. आ. 4138.—सड़क परिवहन निगम अधिनियम, 1950 (1950 का 84) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा श्री बालेश्वर प्रसाद, उप राज्यपाल, दिल्ली को दिल्ली परिवहन निगम के अध्यक्ष के रूप में नियुक्त करते हैं और भारत सरकार के नौवहन और परिवहन मंत्रालय की अधिसूचना संख्या सा.आ. 5083 तारीख 3 नवम्बर, 1971 में और निम्नलिखित संशोधन करती हैं अर्थात्:—

(1) मद 1 और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित मद और प्रविष्टियाँ प्रतिस्थापित की जाएंगी, अर्थात्

“(1) श्री बालेश्वर प्रसाद, उप-राज्यपाल, दिल्ली”

(2) पैरा 2 के स्थान पर निम्नलिखित पैरा प्रतिस्थापित किया जाएगा, अर्थात्

“2. श्री बालेश्वर प्रसाद, उप-राज्यपाल, दिल्ली निगम के अध्यक्ष होंगे”।

[संख्या 15-टीए जी (18)/72.]

एन. आर. रेड्डी, संयुक्त सचिव।

MINISTRY OF COMMUNICATIONS

(P & T Board)

New Delhi, the 5th December, 1972

S.O. 4139.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specifies the 1-1-73 as the date on which the Measured Rate System will be introduced in Karimnagar Telephone Exchange, Andhra Circle.

[No. 5-9/72-PHB(20)]

संचार विभाग
(डाक-तार बोर्ड)

नई दिल्ली, 5 दिसम्बर, 1972

का. आ. 4139.—स्थायी आदेश संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किये गये भारतीय तार नियम 1951 के नियम 434 के खण्ड 3 के पैरा (क) के अनुसार डाक-तार महानिदेशक ने करीम नगर टेलीफोन केंद्र में दिनांक 1-1-73 से प्रमाणित दर प्रणाली लागू करने का निश्चय किया है।

[संख्या 5-9/72 पी. एच. बी. (20).]

S.O. 4140.—In pursuance of para (a) of Section III Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specifies the 16-1-73 as the date on which the Measured Rate System will be introduced in Sasaram Telephone Exchange, Bihar Circle.

[No. 5-14/72-PHB(10)]

A. S. VOHRA,
Asstt. Director General (PHB)

का. आ. 4140.—स्थायी आदेश संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किये गये भारतीय तार नियम 1951 के नियम 434 के खण्ड 3 के पैरा (क) के अनुसार डाक-तार महानिदेशक ने ससाराम टेलीफोन केंद्र में दिनांक 16-1-73 से प्रमाणित दर प्रणाली लागू करने का निश्चय किया है।

[संख्या 5-14/72 पी. एच. बी. (10).]

ए. एस. वोहरा, सहायक महानिदेशक (पी. एच. बी)

MINISTRY OF IRRIGATION AND POWER

New Delhi, the 1st December, 1972

ORDER

S.O. 4141.—In exercise of the powers conferred by sub-section (3) and clause (a) of sub-section (4) of section 67 of the Punjab Reorganisation Act, 1966 (31 of 1966) read with sub-section (2) of section 38 of the State of Himachal Pradesh Act, 1970 (53 of 1970), and in supersession of the following sub-paragraphs of the various notifications namely:—

- (i) sub-para III-A (c) and sub-para III-B (c) of the Schedule to the Government of India, Ministry of Irrigation and Power Order No. EL. II-3(17)/66-(1), dated the 30th April, 1967,
- (ii) sub-para III-A (c) and sub-para III-B (c) of the Schedule to the Government of India, Ministry of Irrigation and Power Order No. EL. II-3(17)/66-(II), dated the 1st May, 1967, and
- (iii) sub-para C(1) (c) and sub-para C(2)(c) of the Schedule to the Government of India, Ministry of Irrigation and Power Order No. EL. II-3(17)/66-(IV), dated the 2nd May, 67.

the Central Government hereby directs that, on the dissolution of the State Electricity Board, referred to in clause (a) of sub-section (1) of section 67 of the Punjab Reorganisation Act, 1966, (hereinafter referred to as the dissolved Board), with effect from the 2nd May, 1967, the Punjab State Electricity Board, constituted under the notification of the Government of Punjab, Irrigation and Power Department No. 5729-I&EL(7)189/67/9563, dated the 29th April, 1967, the Haryana State Electricity Board, constituted under the notification of the Government of Haryana, Public Works Department No. 351-52-PWII-67, dated the 1st April, 1967 and the Himachal Pradesh State Electricity Board, constituted under the notification of the Government of Himachal Pradesh, Department of Multi-purpose Projects and Power No. 6-178/70-MPP (Sectt.) dated the 2nd April,

1971 in relation to the Administration of the Union territory of Himachal Pradesh till the 24th January, 1971 and the State of Himachal Pradesh from the 25th January, 1971 (all hereinafter referred to as the successor Boards) (i) shall assume liability, as on the 2nd May, 1967, equal to the balances at the credit of the subscribers, belonging to the dissolved Board, allotted to each, and (ii) the assets of the dissolved Board in the form of investments of its Provident Fund, as well as the interest or other income therefrom for the period after the 2nd May, 1967, shall be apportioned among the successor Boards in the same ratio in which the liability on account of the Provident Fund balance is assumed by them.

[No. EL. II-3(17)/66-(V)]

S. N. VINZE, Jt. Secy.

सिंचाई और विद्युत मंत्रालय

नई दिल्ली, 1 दिसम्बर, 1972

आदेश

का. आ. 4141.—हिमाचल प्रदेश अधिनियम, 1970 (1970 का 53) की धारा 38 की उपधारा 2 के साथ पठित पंजाब पुनर्गठन अधिनियम, 1966 (1966 का 31) की धारा 67 उपधारा 4 के उपवाक्य (क) तथा उपधारा 3 द्वारा प्रदत्त शक्तियों का उपयोग करते हुए तथा विभिन्न अधिसूचनाओं के निम्नलिखित उप-पैरा, नामशः

- (1) भारत सरकार सिंचाई और विद्युत मंत्रालय के आदेश सं. विद्युत-दो 3(17)/66-(1) दिनांक 30 अप्रैल, 1967 की अनुसूची के उप-पैरा तीन-क (ग) और उप-पैरा-तीन-ख(ग),
- (2) भारत सरकार, सिंचाई और विद्युत मंत्रालय के आदेश, सं. विद्युत-दो-3(17)/66 (दो) दिनांक 1 मई, 1967 की अनुसूची का उप-पैरा, तीन-क (ग) और उप-पैरा-तीन-ख(ग),
- (3) भारत सरकार, सिंचाई और विद्युत मंत्रालय के आदेश सं. विद्युत-दो-3(17)/66 (चार) दिनांक 2 मई, 1967 की अनुसूची के उप-पैरा ग(1)(ग) तथा उप-पैरा ग(2)(ग)

के प्रतिस्थापन में केन्द्रीय सरकार एतद्वारा निदेश देती है कि पंजाब पुनर्गठन अधिनियम, 1966 की धारा 67 की उपधारा (1) के उपवाक्य (क) में उल्लिखित राज्य बिजली बोर्ड (इसके उपरीत जिसे यहाँ विघटित बोर्ड कहा जाएगा) के 2 मई, 1967 से विघटन हो जाने पर, पंजाब सरकार, सिंचाई और विद्युत विभाग की अधिसूचना सं. 5729-आई. एड. ई. एल. (7) 189/67/9563 दिनांक 29 अप्रैल, 1967 द्वारा गठित पंजाब राज्य बिजली बोर्ड, हरियाणा सरकार लोक निर्माण कार्य विभाग की अधिसूचना सं. 351-52 पी. डब्ल्यू.-दो-67 दिनांक 1 अप्रैल, 1967 द्वारा गठित हरियाणा राज्य बिजली बोर्ड और हिमाचल प्रदेश सरकार, बहुदंश्रीय परियोजना तथा विद्युत विभाग की अधिसूचना सं. 6-178/70 एम. पी. पी. (सचि.) दिनांक 2 अप्रैल, 1971 द्वारा, 24 जनवरी, 1971 तक हिमाचल प्रदेश के संघ राज्य के प्रशासन के संबंध में तथा 25 जनवरी, 1972 से हिमाचल प्रदेश राज्य के संबंध में, गठित हिमाचल प्रदेश राज्य बिजली बोर्ड (ये सभी इसके उपरंत उत्तराधिकारी बोर्ड कहे जाएंगे)।

(1) विघटित बोर्ड के प्रत्येक बोर्ड को आवंटित उपभोक्ताओं के जमा शेष के समक्ष दायित्व तथा

(2) विघटित बोर्ड के माध्यम निधि में लगे निवेश, जब इसका उत्तराधिकारी बोर्डों में उभी अनुपात में आवंटन किया

जाएगा जिसमें कि उन्होंने भविष्य निधि के जमा-शेष का उत्तर-दायित्व ग्रहण किया होगा, के साथ 2 मई, 1967 से उस पर व्याज या उससे हुई अन्य आय की परिसम्पत्ति ग्रहण करेंगे।

[सं. विद्युत्-दो 3(17)/66 (पांच).]

श्री. ना. विंझे, संयुक्त सचिव।

New Delhi, the 2nd December, 1972

S.O. 4142.—In exercise of the powers conferred by Section 3 of the Electricity (Supply) Act, 1948 (54 of 1948) and in partial modification of this Ministry's Notification No. EL. II-28(9)/71 dated the 20th July, 1971, the Central Government hereby appoints Shri P. P. Gangadharan, Member, Commercial, Central Water and Power Commission (Power Wing), as a Member of the Central Electricity Authority vice Shri P. N. Jain.

[No. E.L. II-28(8)/72]

M. RAMANATHAN, Dy. Director (Power).

नई दिल्ली, 2 दिसम्बर, 1972

का. आ. 4142.—बिजली (सप्लाई) अधिनियम, 1948 (1948 का 54) के खण्ड 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और इस मंत्रालय की अधिसूचना संख्या बिजली-दो-23(9)/71 दिनांक 20 जुलाई, 1971 में आंशिक रूप से संशोधन करते हुए, केन्द्रीय सरकार एतद्वारा श्री पी. पी. गंगाधरण, सदस्य, वाणिज्यिक, केन्द्रीय जल और विद्युत् आयोग (विद्युत् स्कंध) को श्री पी. एन. जैन के स्थान पर केन्द्रीय बिजली प्राधिकरण के सदस्य के रूप में नियुक्त करती है।

[सं. बिजली-दो-28(8)/72]

एम. रामनाथन, उपनिवेशक।

MINISTRY OF WORKS AND HOUSING

New Delhi, the 4th December, 1972

S.O. 4143.—In exercise of the powers conferred by section 3 read with section 20 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby makes the following amendment in the notification of the Government of India in the late Ministry of Works, Housing and Supply No. S.O. 307, dated the 28th January, 1959, namely:—

In the Table below the said notification; in column 1, against serial No. 28 for the entry,

"Superintendent, Delhi Zoological Park, New Delhi", the following entry shall be substituted, namely:—

"Director, Delhi Zoological Park, New Delhi".

[No. 21011(4)/66-Pol. IV]

निर्माण और आवास मंत्रालय

नई दिल्ली, 4 दिसम्बर, 1972

का. आ. 4143.—लोक परिसर (अप्राधिकृत अधिभोगियों की बंदखली) अधिनियम, 1971 (1971 का 40) की धारा 20 के साथ पठित धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा भारत सरकार के भूतत्पूर्व निर्माण, आवास और पूर्ति मंत्रालय की अधिसूचना सं. का. आ. 307 तारीख 28 जनवरी, 1959 में निम्नीलिखित संशोधन करती है, अर्थात्:—

उक्त अधिसूचना के नीचे दी गयी सारणी में, स्तम्भ 1 में क्रम संख्या 28 के सामने "अधीक्षक, दिल्ली चिड़ियाघर, नई दिल्ली" प्रविष्टि के स्थान पर निम्नीलिखित प्रविष्टि रखी जाएगी, अर्थात्:—

"निदेशक, दिल्ली चिड़ियाघर, नई दिल्ली"।

[सं. 21011(4)/66-पी ओ एल 4]

S.O. 4144.—In exercise of the powers conferred by sub-section (1) of section 17 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952), the Central Government hereby directs that the powers exercisable by it under the provisions of the said Act specified in column (3) of the Schedule hereto annexed shall be exercisable also by the authority mentioned in the corresponding entry in column (2) of the said Schedule in respect of any property situated within its jurisdiction subject to the condition specified in the corresponding entry in column (4) thereof.

SCHEDULE

S.No	Authorities	Provisions of the Act	Conditions
1	2	3	4
1.	Deputy Commissioner, Chandigarh.	Sections 6, 7, 8 except clause (b) of sub-section (1) and section 13.	No power under section 8 in so far as it relates to the fixing of the amount of compensation by agreement shall be exercisable except with the previous approval of the Central Government.

No. [19014(27)/67-Pol. IV]

सा. आ. 1144.—स्थावर सम्पत्ति का अधिग्रहण और अर्जन अधिनियम, 1952 (1952 का 30) की धारा 17 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा निदेश देती है कि संलग्न अनुसूची के स्तम्भ (3) में विनिर्दिष्ट उक्त अधिनियम के उपबन्धों के अधीन उनके द्वारा प्रयोक्तव्य शक्तियां उक्त अनुसूची के स्तम्भ (2) में तत्स्थानी प्रविष्टियों में उल्लिखित प्राधिकारी द्वारा भी, उसकी अपनी प्राधिकारिता के भीतर स्थित किसी भी सम्पत्ति की बाबत उसके स्तम्भ (4) में की तत्स्थानी प्रविष्टियों में विनिर्दिष्ट शर्तों के अधीन, प्रयोक्तव्य होगी।

अनुसूची

क्रम सं०	प्राधिकारी	अधिनियम के उपबन्ध	शर्तें
(1)	(2)	(3)	(4)

1. उपायुक्त, चंडीगढ़ धारा 6, 7, 8, [उप- निम्नाय केन्द्रीय सरकार के धारा (1) के खण्ड पूर्ण अनुमोदन के कोई भी (ख) को छोड़कर] धारा 8 के अधीन शक्ति, और धारा 13। जहाँ तक उसका करार द्वारा प्रतिकर राशि निश्चित करने का सम्बन्ध है, प्रयोक्तव्य नहीं होगी।

[No. 19014 (27)/67-Pol. IV]

S.O. 4145.—In exercise of the powers conferred by section 3, read with section 20 of the Public Premises (Eviction of Unauthorised occupants) Act, 1971 (40 of 1971), the Central Government hereby makes the following amendment to the notification of the Government of India in the Ministry of Health and Family Planning and Works, Housing and Urban Development (Department of Works, Housing and Urban Development) No. S.O. 1192 dated the 17th March, 1969, namely :—

In the Table below the said notification, for the existing entry in column (1), the following entry shall be substituted, namely :—

"Managing Director, Hindustan Housing Factory Limited, New Delhi."

[No. 21012(3)/69-Pol. IV]

का.आ. 4145.—लोक परिसर (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 20 के साथ पीठित धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा भारत सरकार के स्वास्थ्य और परिवार नियोजन और निर्माण, आवास और नगर विकास मंत्रालय (निर्माण, आवास और नगर विकास विभाग) की अधिसूचना सं. का.आ. 1192 तारीख 17 मार्च, 1969 में निम्नीलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना के नीचे दी गयी सारणी में, स्तम्भ (1) में की वर्तमान प्रविष्टि के स्थान पर निम्नीलिखित प्रविष्टि रखी जाएगी, अर्थात् :—

"प्रबंध निदेशक, हिंदुस्तान हाउसिंग फैक्टरी लिमिटेड, नई दिल्ली"।

[सं. 21012(3)/69-पी. ओ. एल. 4]

S.O. 4146.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Works and Housing No. S.O. 870, dated the 3rd March, 1972, namely :—

In the table below the said notification in column 1,

(i) against serial No. 7, for the entry, the following entry shall be substituted, namely :—

"Administrative Manager, Earth Mover Division, K. G. F., Bharat Earth Movers Limited, Bangalore".

(ii) against serial No. 9, for the entry, the following entry shall be substituted, namely :—

"Deputy General Manager (Administration), Sindri Unit, Fertiliser Corporation of India, Sindri."

[No. 21012(10)/69-Pol. IV]

का.आ. 4146.—लोक परिसर (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा भारत सरकार के निर्माण और आवास मंत्रालय की अधिसूचना सं. 870 तारीख 3 मार्च, 1972, में निम्नीलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना के नीचे दी गयी सारणी में स्तम्भ 1 में,

(1) क्रम सं. 7 के सामने की प्रविष्टि के स्थान पर निम्नीलिखित प्रविष्टि रखी जाएगी, अर्थात् :—

"प्रशासनिक प्रबंधक, अर्थ मूवर डिवाइजन, के. जी. एफ. भारत अर्थ मूवर लिमिटेड, बंगलौर"।

(2) क्रम सं. 9 के सामने की प्रविष्टि के स्थान पर निम्नीलिखित प्रविष्टि रखी जाएगी, अर्थात् :—

"उप महाप्रबंधक (प्रशासन), सिंदरी यूनिट, भारत का उर्वरक निगम, सिंदरी।"

[सं. 21012(10)/69-पी ओ एल. IV]

S.O. 4147.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby makes the following amendment to the notification of the Government of India in the Ministry of Works and Housing No. S.O. 3622 dated the 7th September, 1971, namely :—

In the Table below the said notification, for the existing entry in column (1), the following entry shall be substituted, namely :—

"Regional Commissioner, Coal Mines Provident Fund Organisation, Dhanbad, Bihar."

[No. 21012(2)/70-Pol. IV.]

का.आ. 4147.—लोक परिसर (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा भारत सरकार के निर्माण और आवास मंत्रालय की अधिसूचना संख्या का.आ. 3622 तारीख 7 सितम्बर, 1971, में निम्नीलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना के नीचे की सारणी में, स्तम्भ (1) में की प्रविष्टि के स्थान पर निम्नीलिखित प्रविष्टि रखी जाएगी, अर्थात् :—

"प्रादेशिक आयुक्त, कोयला खान भविष्य निर्धि, धनबाद, बिहार।"

[सं. 21012(2)/70-पी. ओ. एल. IV]

S.O. 4148.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being the officer equivalent to the rank of gazetted officer of Government, to be estate officer for the purposes of the said Act, and further that the said officer shall exercise the powers conferred, and perform the duties imposed, on estate officers by or under the said Act in respect of the public premises specified in column (2) of the said Table.

THE TABLE

Designation of the officer	Categories of Public Premises and Local limits of Jurisdiction.
1	2
1. Deputy Manager, The National Small Industries Corporation Limited, Bombay.	Public Premises owned, acquired or hired by the Corporation in Maharashtra State.

[No. 21012(10)/72-Pol. IV]

R.B. SAXENA,
Deputy Director of Estates and
Ex Officio, Under Secretary.

का० आ० 4148—लोक परामर्श (अप्राधिकृत अधिभोगियों की वेबखनी) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, नीचे की मारणी के स्मृति (1) में वर्णित अधिकारी को, जो सरकार के राजपत्रित अधिकारी के समतुल्य अधिकारी हैं, उक्त अधिनियम के प्रयोजनों के लिए सम्पदा अधिकारी के रूप में एतद्वारा नियुक्त करती है, जो उक्त मारणी के स्मृति (2) में विनिर्दिष्ट लोक परामर्शों के सम्बन्ध में अपनी अधिकारिता के भीतर उक्त अधिनियम द्वारा या उसके अधीन सम्पदा अधिकारियों को प्रदत्त शक्तियों का प्रयोग करेगा, और उस पर अधिरोपित कर्तव्यों का पालन करेगा।

मारणी

अधिकारी का पदाभिधान	लोक परामर्शों के प्रवर्ग और अधि-कारिता की स्थानीय सीमाएं
(1)	(2)
1. उप-प्रबन्धक, राष्ट्रीय लघु उद्योग निगम लिमिटेड, मुम्बई।	महाराष्ट्र राज्य में निगम के स्वामित्व वाले, अर्जित किए गए या किए जाने पर लिए गए लोक परामर्श।

[सं० 21012(10)/72-पी० ओ० एन० iv]

आर० बी० सक्सेना, उप-सम्पदा निदेशक और पदेन उप-सचिव, भारत सरकार।

(Department of Labour & Employment)
(Office of the Chief Labour Commissioner)
(Central)

New Delhi, the 27th November, 1972

ORDER

S.O. 4149.—Whereas an application has been made under section 19(b) of the Payment of Bonus Act 1965 by Messrs. Oriental Coal Company Ltd., (employer) in relation to their establishments mentioned in the Schedule below for extension of the period for the payment of bonus to their employees for the accounting year ending on 31st December, 1971.

And whereas being satisfied that there are sufficient reasons to extend the time I have, in exercise of the powers conferred on me by the proviso to clause (b) of Section 19 of the said Act read with the notification of the Government of India in the Ministry of Labour and Employment No. WB. 20(42)/65, dated the 28th August, 1965, passed order on 23rd November, 1972 extending the period for payment of the said bonus by the said employer by two months 21 days. (i.e., up to 21st November, 1972) from the last date for payment of bonus under clause (b) of Section 19 of the Act.

Now this is published for information of the employer and all the employees of the said establishment.

THE SCHEDULE

Name and address of the employer(s)

M/s. Oriental Coal Company Ltd., Thaper House, 25-Brabourne Road, Calcutta-1.

Establishment(s)

Real Jambad Colliery Badjna Colliery Rawanwara Khas Colliery and Kamptee Colliery.

[No. BA. 16(24)/72-LSI]

R. J. T. D'MELLO, Chief Labour Commissioner.

श्रम और रोजगार विभाग (मुख्य श्रम आयुक्त का कार्यालय) (केन्द्रीय)

दिनांक, 27 नवम्बर, 1972

आदेश

का.आ. 4149.—यतः मैसर्स ओरिएण्टल कोल कम्पनी लि. (नियो-जक) ने नीचे की अनुसूची में वर्णित अपने स्थापनों के संबंध में 31-12-71 को समाप्त होने वाले लेखा वर्ष के लिये अपने कर्मचारियों की बोनस के संदाय की कालावधि को बढ़ाने के लिये बोनस संदाय अधिनियम, 1965 की धारा 19(ख) के अधीन आवेदन दिया है।

और यतः यह समाधान हो जाने पर कि समय बढ़ाने के लिये पर्याप्त कारण हैं, मैंने भारत सरकार के श्रम और रोजगार मंत्रालय की अधिसूचना सं. डब्ल्यू बी-20(42)/65 तारीख 28 अगस्त, 1965 के साथ पठित उक्त अधिनियम की धारा 19 के खण्ड (ख) के संदाय की अंतिम तारीख से दो महीने 21 दिन (अर्थात् 21-12-1972 को उक्त नियोजक द्वारा उक्त बोनस के संदाय की कालावधि को अधिनियम की धारा 19 के खण्ड (ख) के अधीन बोनस के संदाय की अंतिम तारीख से दो महीने 21 दिन (अर्थात् 21-11-1972 तक) बढ़ाने का आदेश दे दिया है।

अब इसे उक्त स्थापन के नियोजक और सभी कर्मचारियों की सूचना के लिए प्रकाशित किया जाता है।

अनुसूची

नियोजक/नियोजक

का नाम और पता

मैसर्स ओरिएण्टल कोल कम्पनी लि.

थापर हाउस, 25 ब्राबोर्नी रोड,

कलकत्ता-1।

स्थापन

रियल जमबाद, बजना, खनवारा खास कामपटी कॉलिरी इज।

[सं. बी. ए. 16(24)/72-एल. एस. 1.]

आर. जे. टी. डीमेलो, मुख्य श्रम आयुक्त।

(Department of Labour & Employment)

New Delhi, the 27th October, 1972

ORDER

S.O. 4150.—WHEREAS the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Central Alkusa Gondudiah Colliery, Post Office Kusunda, District Dhanbad, and their workmen in respect of the matters specified in the Schedule hereto annexed;

AND WHEREAS the Central Government considers it desirable to refer the said dispute for adjudication;

NOW, THEREFORE, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal (No. 1), Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the action of the management of Central Alkusa Gondudiah Colliery, Post Office Kusunda, District Dhanbad at present under the management of Bharat Coking Coal Limited, in denying permanency to Sarvashri Basdeo Ram, Truck Driver, Rameshwar Singh, Jadu Rawani and Atwari Rawani, Truck Khalasis and further transferring their services to Messrs C. R. Company Dhanbad with effect from the 8th September, 1971, is justified? If not, to what relief are the concerned workmen entitled?

[No. L/2012/24/72-I.R.II.]

नई दिल्ली, 27 अक्टूबर, 1972

आवृत्ति

का.आ. 4150.—यतः केन्द्रीय सरकार की राय है कि इससे उपा-
बद्ध अनुसूची में विनिर्दिष्ट विषयों के बारे में सेंट्रल अल्लुहा
गाँव, डीह कोलियरी हाकधर कसुण्डा, जिला धनबाद के प्रबन्ध
तंत्र से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच एक
औद्योगिक विवाद विद्यमान है ;

और यतः केन्द्रीय सरकार उक्त विवाद को न्यायीनिर्णयन के
लिए निवेदिता करनी बांछनीय समझता है ;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14)
की धारा 10 की उप धारा (1) के खण्ड (घ) द्वारा प्रदत्त शक्तियों
का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त विवाद को
उक्त अधिनियम की धारा 7-क के अधीन गठित केन्द्रीय सरकार
औद्योगिक अधिकरण (संख्या 1) धनबाद को न्यायीनिर्णयन के
लिए निवेदिता करती है ।

अनुसूची

“क्या सेंट्रल अल्लुहा गाँव, डीह कोलियरी, हाकधर कसुण्डा, जिला
धनबाद, जो इस समय भारत कोलिंग कोल लिमिटेड के
प्रबन्ध के अधीन है, के प्रबन्धतंत्र की सर्वश्री बासदेवराम, टुक
चालक, रामेश्वर सिंह, जादू, रावानी, और अतवारी रावानी, टुक
खलासियों को स्थायी बनाने से इनकार करने और इसको अति-
रिक्त उनकी मेन्टार्ण्ड 8 सितंबर, 1971 से मेन्सर्स सी. आर.
कम्पनी, धनबाद को स्थानान्तरित करने की कार्यवाही न्या-
यीचित है ? यदि नहीं, तो सम्बन्धित कर्मकार किस
अनुपात के हकदार हैं ?”

[संख्या एल/2012/24/72-एल. आर.-2]

करनैल सिंह, अव्वर सीचक

New Delhi, the 29th November, 1972

S.O. 4151.—In pursuance of section 17 of the Industrial
Disputes Act, 1947 (14 of 1947), the Central Government
hereby publishes the following award of the Central Gov-
ernment Industrial Tribunal, Jabalpur in the Industrial dis-
pute between the employers in relation to the Allahabad
Bank and their workmen, which was received by the Central
Government on the 24th November, 1972.

[No. L. 12012/35/72/LR.III]

KARNAIL SINGH, Under Secy.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR, CAMP AT
ALLAHABAD.

Dated November 14, 1972

Case No. CGIT/LC(R)(40) of 1972

(Notification No. L-12012/35/71/LR.III dated Sept. 2,
1971 and subsequent Notification transferring the case to
Central Government Industrial Tribunal-cum-Labour Court,
Jabalpur No. 12025/34/72/LR.III dated October 6, 1972).

Parties :

Employers in relation to the Allahabad Bank and their
workman (Sudhir Kumar Tewari).

Appearances :

For Bank—Manager, Allahabad Bank, Allahabad.

For Workman—None.

Industry : Bank

District : Bareilly (U.P.)

AWARD

This is a reference under Sec. 10(1)(d) of the Industrial
Disputes Act. The question referred to me is:—

“Whether the management of the Allahabad Bank are
justified in not absorbing Shri Sudhir Kumar
Tiwari in their permanent employment? If not, to
what relief is he entitled?”

No one has appeared on behalf of the workman on the
various dates on which the reference came up for hearing.
A letter from Sri U. C. Bajpai, Asstt. General Secretary,
U.P. Bank Employees Union, Lucknow dated 3-8-1972 has
been received. It says:—

“No dispute between the U.P. Bank Employees Union
and the management of Allahabad Bank exists in
relation to Sri Sudhir Kumar Tiwari”.

Since there is no dispute between the parties, I need not
answer the question. The reference is disposed of accord-
ingly. I make no order as to costs.

S. N. KATJU, Presiding Officer

New Delhi, the 29th November, 1972

S.O. 4152.—In pursuance of section 17 of the Industrial
Disputes Act, 1947 (14 of 1947), the Central Government
hereby publishes the following award of the Central Gov-
ernment Industrial Tribunal, Jabalpur, in the Industrial dis-
pute between the employers in relation to the management
of North, South and West Jhagrakhand Collieries of Messrs
Jhagrakhand Collieries (Private) Limited, Post Office Jhagra-
khand Colliery, District Surguja (Madhya Pradesh), and their
workmen, which was received by the Central Government
on the 23rd November, 1972.

[No. 1/6/68-LR.II.]

KARNAIL SINGH, Under Secy.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR

Dated October 30, 1972

Present :

Mr. Justice S. N. Katju—Presiding Officer.

Case Ref. No. CGIT/LC(R)(14) of 1969

(Notification No. 1/6/68-LR.II dated 14-3-1969)

Parties :

Employers in relation to the management of North,
South, and West Jhagrakhand Colliery of Jhagra-
khand Collieries (Private) Ltd., Post Office Jha-
grakhand Colliery, District Surguja (Madhya Pra-
desh) and their workmen represented through the
representatives of the M.P. Colliery Workers Fed-
eration, Azad Koyala Shramik Sabha and M.P.
Koyala Mazdoor Panchayat and Jhagrakhand Work-
ers Union.

Appearances :

For employers—S/Shri P. S. Nair, Advocate and G. R.
Bhandari, Group Personnel Officer.For workmen—1. Sri Gulab Gupta, Advocate and
General Secretary, M.P. Colliery Workers Federa-
tion.2. S/Shri S. D. Mukerji and B. Boral for Azad
Koyala Shramik Sabha and Jhagrakhand Workers
Union.

Industry : Coal Mine

District : Surguja (M.P.)

AWARD

This is a reference under Sec. 10(1)(d) of the Industrial
Disputes Act. The main question for consideration is whe-
ther the workmen of the Jhagrakhand Colliery are entitled

to 15 days with full pay or 30 days sick leave on half pay. The matter came before the Tribunal and it expressed the view that the option lay with the workmen and they could either have 15 days sick leave on full pay or 30 days sick leave on half pay. The employers challenged the award of the Tribunal before the High Court of Madhya Pradesh. The High Court expressed the view that the Tribunal while giving its award should reconsider the matter in the light of the convenience and benefits to the management, reasonableness of the settlement and whether the settlement was accepted by a large number of workmen. It may be mentioned that the dispute which has been raised by the workmen had gone earlier before the Asstt. Labour Commissioner (Central) and eventually there was a settlement in the course of the conciliation proceedings before the Asstt. Labour Commissioner (Central). The workmen of the colliery are represented by several unions viz., The M.P. Koyala Madoor Panchayat, Azad Koyala Shramik Sabha, Jhagrakhand Workers Union and the M.P. Colliery Workers' Federation. The M.P. Koyala Mazdoor Panchayat, hereinafter called the Panchayat, was a party to the aforesaid settlement by which it was agreed that the workmen will have 30 days sick leave on half pay. The dispute was again raised by the M.P. Colliery Workers Federation which came before the Tribunal, as mentioned above, I have heard learned representatives of the parties. Sri Gulab Gupta who appears on behalf of the M.P. Colliery Workers' Federation, hereinafter called the Federation, contended, inter alia, that since the aforesaid settlement was not in the course of conciliation proceedings, the settlement has no binding effect in view of the provision of Rule 58(4) of the Central Rules under the Industrial Disputes Act. Rule 58(4) provides that a copy of the settlement will be sent to the prescribed authorities and the said rule being mandatory the non-compliance will render the settlement nugatory. He contended that since such copies had not been sent to the prescribed authorities the settlement had lost its binding effect. Sri Nair has argued that the aforesaid settlement was arrived at in the course of conciliation proceedings before the Asstt. Labour Commissioner (Central) and therefore there is no question of the applicability of the Rule 58(4) of the Central Rules. Mr. Gulab Gupta has further argued that the total average of illness among the workmen of the colliery was only 22 days in an year and if they are given their right to take 30 days sick leave on half pay they will incur monetary loss. He contended that since the monthly paid employees of the colliery were getting 15 days sick leave with full pay it will amount to discrimination between the workmen if another section of the workmen viz. those who are employed on weekly wages, are given 30 days sick leave on half pay. Sri P. S. Nair who has appeared on behalf of the employers has contended that the balance of convenience of the parties has to be considered. He has further contended that the other considerations as pointed out by the Hon'ble High Court, M.P. viz. reasonableness of the settlement and also whether the settlement has been accepted by a large number of workers should also be given effect to. Sri S. D. Mukerji has appeared on behalf of the Azid Koyala Shramik Sabha and Jhagrakhand Workers Union. He has supported the aforesaid settlement and has contended that the right to take 30 days sick leave on half pay will be beneficial to the workmen and therefore the aforesaid settlement should be given effect to.

The proceedings before the Asstt. Labour Commissioner (Central) are on the record and it is evident that the aforesaid settlement was arrived at in the course of the conciliation proceedings before the Asstt. Labour Commissioner (Central). Sri Nair is therefore right in contending that the aforesaid Rule 58(4) has no application in the present case. The hon'ble High Court while quashing the award of the Tribunal dated 4-3-1972 observed as follows:—

"The contention of learned counsel appearing for the respondents was that the Tribunal had given its reasons in the award for its finding that 15 days sick leave with full pay is proper and beneficial to the workers and, therefore, this ought to have been granted by the Management. But, the consideration in making an award for adjudicating upon the differences between the Management and its workers are different from those which would have to be taken into account if the Tribunal has to decide the reasonableness of the settlement between the manage-

ment and some of its workers. In that case, not only the consideration about the benefits to be acquired by the workers would be required to be taken into account, but also the convenience and the benefits to the Management and its acceptance by a large number of workers would also enter into consideration in order to determine what is reasonable for this particular industrial unit. If the whole purpose of the award in such industrial disputes is to preserve peace and good relations between the Management and its workmen, the interest of both the Management and the workmen has to be kept in mind in coming to the decision. We are, therefore, of the opinion that the Tribunal did not apply its mind from the correct point of view in determining the effect of such a settlement upon the proceedings before it."

Proceedings in accordance with the aforesaid observations, I have to consider whether the right to take 15 days sick leave on full pay or 30 days sick leave on half pay would serve the convenience of the parties and will be beneficial to them and whether the settlement was acceptable to a large number of workers of the colliery who were represented by the Panchayat. Mr. Nair on behalf of the management strenuously argued that if the workers are given the right to take 30 days sick leave on half pay the result would be that there will be a rush of workers applying for sick leave in the last month of the year which will seriously jeopardise the working of the colliery. He argued that it will be in the interest of smooth working of the colliery that such a situation should not arise and in any case the workers are not likely to be prejudiced if they are given the right to take 30 days sick leave on half pay. Mr. Gupta however, has contended, as mentioned above, that in view of the fact that the total average of illness in the colliery was 22 days therefore the right to take sick leave on half pay will be prejudicial to the workmen. The question of balance of convenience to the parties and what arrangement will be beneficial to the management or to the workers must, in the present case, be considered in the light of the representative character of the Panchayat which had entered into the aforesaid settlement on behalf of the workmen. Sri G. R. Bhandari has given evidence on behalf of the employers on the question of the representative character of the Panchayat while Sri Gaya Prasad Sharma has deposed on behalf of the workmen. Sri Gaya Prasad Sharma conceded that the membership of the Federation was equal to that of the Panchayat. This was, however, denied by the management. Even assuming that the membership of the Federation was equal to that of the Panchayat the fact remains that the action of the Panchayat in arriving at the aforesaid settlement with the management has been supported by the two other Unions viz., The Azad Koyala Shramik Sabha and the Jhagrakhand Workers Union who were represented before me by Sri S. D. Mukerji. It appears that a large majority of the workers of the colliery have given their option in favour of 30 days sick leave on half pay. Taking the totality of the circumstances into consideration, my award is that the management of North, South and West Jhagrakhand Collieries of M/s. Jhagrakhand Colliery (P) Ltd. was justified in denying 15 days sick leave with full pay to their weekly paid workmen. The said workmen are entitled to 30 days sick leave on half pay. The parties will bear their own costs.

S. N. KATJU, Presiding Officer

New Delhi, the 30th November, 1972

S.O. 4153.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, No. 2, Dhanbad, in the industrial dispute between the employers in relation to the management of Kedla Jharkhand Collieries, Post Office Kedla, District Hazaribagh and their workmen, which was received by the Central Government on the 21st November, 1972.

[No. 8/170/70-LRII.]

KARNAIL SINGH, Under Secy.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (No. 2), DHANBAD.

Present :

Shri Nandagiri Venkata Rao—Presiding Officer.

REFERENCE No. 7 OF 1971.

In the matter of an industrial dispute under S. 10(2)
of the Industrial Disputes Act., 1947.

Parties :

Employers in relation to the management of Kedla
Jharkhand Collieries, Post Office Kedla, District
Hazariabagh.

AND

Their workmen represented by Koyala Shramik Sangathan,
Post Office Kedla, District Hazariabagh.

Appearances :

On behalf of the employers :

Shri B. Joshi,
Advocate.

On behalf of the workmen :

Shri S. Dasgupta,
Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, 13th November, 1972

AWARD

This is a reference under sub-section (2) of S. 10 of the Industrial Disputes Act, 1947. On the joint application of the employers in relation to the management of Kedla Jharkhand collieries, Post Office Kedla, District Hazariabagh and their workmen represented by Koyala Shramik Sangathan, Post Office Kedla, District Hazariabagh under the above provision of law for reference of an Industrial dispute that exists between them to an industrial tribunal in respect of the matters set forth in the schedule hereto annexed, the Central Government, having satisfied itself that the persons applying represent the majority of each party referred the dispute for adjudication to this Tribunal. The schedule is extracted below :

SCHEDULE

"Whether the management of the Kedla Colliery is justified in retrenching the services of Sri Yakub Toppo, Mechanic of the colliery; if not, to what relief is he entitled and from what date?"

2. Parties filed their statements. On behalf of the workmen rejoinder to the statement of the employers is also filed. The State of Bihar instituted two Civil Suits (T. S. Nos. 16/61 and 45/60) against M/s. Bokaro Ramgarh Ltd. in the court of the Sub-ordinate Judge, Hazariabagh. On the application of the plaintiffs the court passed an order on 6-10-1969 appointing a receiver and by its order dated 7-10-1969 appointed Shri P. K. Misra, I.A.S., Deputy Commissioner, Hazariabagh as ad-interim receiver for Kedla and other collieries to perform all the duties of a receiver in the matter of running, managing and looking after the properties including the mines and mineralogy with powers to Shri P. K. Misra to appoint Shri N. N. Jha, the District Mining Officer, Hazariabagh as his agent. Accordingly the receiver took over the properties, inclusive of Kedla colliery on 10-10-1969. The affected workman was an employee of M/s. Bokaro Ramgarh Ltd. on 15-3-1970 the agent issued a letter to the affected workman stating that he was considered surplus to the requirements at Kedla colliery and, as such his services were thereby terminated offering him one month's salary in lieu of notice. On 3-4-1970 the General Secretary, Koyala Shramik Sangathan addressed a letter to the Assistant Labour Commissioner (C) Hazariabagh raising an industrial dispute in regard to the termination of services of the affected workman. During the conciliation proceeding a settlement was arrived at between the employers represented by Shri R. B. Choudhury, manager, Kedla colliery and Shri Rameshwar Prasad Sinha, Vice President, Koyala Shramik Sangathan agreeing to apply jointly

under S. 10(2) of the Industrial Disputes Act, 1947 to the Government of India for reference of the issue to an industrial tribunal for adjudication. Hence the reference. These facts are not in dispute.

3. The case of the workmen in brief is that the retrenchment of the affected workman was mala fide and illegal. According to the employers the affected workman was appointed temporarily on 10-10-1969, the temporary work on which he was employed was completed and his services were no longer required and his services were terminated and the case of the affected workman was a termination simpliciter and not a case of retrenchment. The employers also raised legal objections saying that the affected workman or his union never raised any industrial dispute with the management regarding termination of his services and that the reference was bad in law since no permission from the Civil Court appointing the receiver had been obtained. In the rejoinder the workman denied all the counter allegations made by the employers and narrated at length the facts to establish mala fides on the part of the agent in terminating the services of the affected workman. The workman was represented by Shri S. Dasgupta, Advocate and the employers by Shri B. Joshi, Advocate. On admission by the employers, Exts. W. 1 to W. 5 for the workmen and on admission by the workmen, Exts. M 1 to M 3 and M 6 and M 7 for the employers were marked. On behalf of the workmen 4 witnesses were examined and Exts. W. 6 to W. 26 were marked. The employers examined a witness and marked Exts. M 4 and M 5.

4. Shri B. Joshi, the learned Advocate for the employers did not address any argument on either of the two legal objections pleaded. The first legal objection is that there was no industrial dispute between the parties, inasmuch as neither the affected workman nor any one on his behalf had raised any dispute with the management regarding the termination of the services of the affected workmen before the dispute was taken to the Assistant Labour Commissioner (C), Hazariabagh. The dispute was raised before the Assistant Labour Commissioner by the General Secretary, Koyala Shramik Sangathan on 3-4-1970 by the letter, Ext. W 11. According to the affected workman, WW 4 he had submitted an application, Ext. W. 17 dated 23-3-1970 to the Agent after he had received the order, Ext. W. 1 terminating his services. In this application the affected workman stated that he was a workman in the colliery since 1956 and termination of his services was unjustified. He has also submitted Applications Exts. W. 23, W. 24, W. 25 and W. 26, to the same affect and out of them Ext. W. 23 was dated 11-3-1970. The affected workman, WW. 4 has also deposed that the original of Ext. W. 25 was received in the head office by a clerk named Chandra Bhusan and he identified the signature of Chandra Bhusan on it. According to WW. 4 he had delivered the original of Ext. W. 24 to the Receiver, K. A. Subramaniam personally when he had gone to the colliery, the original of Ext. W. 23 to the then manager of the colliery, WW. 2 and the original of Ext. W. 26 to B. N. Singh, Minister when he had visited the colliery. This apart, at the request of the workmen file No. 21-B(18)/70 was called for from the Assistant Labour Commissioner (C), Hazariabagh and it shows that on receipt of the complaint, Ext. W. 11 from the General Secretary of the union the Assistant Labour Commissioner has issued a notice dated 3/4-4-1970, accompanied by a copy of the complaint, Ext. W. 11 to the employers. The complaint was specifically as regards the industrial dispute regarding termination of services of the affected workman. On receipt of the complaint the employers submitted their comments. The Patna High Court has specifically pointed out in *Managing Contractor v. the Presiding Officer & others* (CWJC 1513 of 1969) that the Assistant Labour Commissioner forwarding a copy of the letter raising the dispute to the employers was sufficient to constitute an industrial dispute. This material on record apart, it is significant to note that the reference is under sub-section (2) of S. 10 of the Industrial Disputes Act, 1947 on a specific agreement by the parties. Through the agreement the employers had specifically admitted that there was a dispute between them and the workmen represented by Koyala Shramik Sangathan regarding retrenchment of the services of the affected workman and the industrial dispute should be referred for adjudication to an industrial tribunal. On the face of this admission it is not open to the employers now to contend that there was no industrial dispute between them and the workmen justifying the reference by the Central Government. I am not referred to any provision

of law under which it was incumbent on the Central Government to obtain prior permission of the Court of the Subordinate Judge by which the Receiver was appointed, for making the reference. Hence, I do not find any substance in either of the two legal objections raised by the employers.

5. Through their statement the employers tried to contend that the affected workman was not retrenched but his services were terminated. The employers cannot be permitted to take this plea in view of the decision of the Supreme Court in *Delhi Cloth & General Mills Co. Ltd. v. their workmen & others* (1967-1-L.L.J. 423), laying down that the tribunal cannot widen the scope of the enquiry beyond the terms of reference and parties cannot be allowed to challenge the very basis of the issue set forth in the order of reference. As seen from the file of the Assistant Labour Commissioner (Central) Hazaribagh, the parties themselves had framed the issue through their agreement and the same is referred by the Central Government for adjudication. The issue specifically points out that the services of the affected workman, a mechanic of the colliery, were retrenched by the employers. Hence, the plea of the employers that the case of the affected workman was not of retrenchment but was of termination simpliciter cannot sustain. I have to proceed on the premises that the affected workman was a mechanic in Kedla colliery and the employers have retrenched his services and find out if the retrenchment was justified.

6. While admitting that the affected workman was an employee of M/s. Bokaro & Ramgarh Ltd. the employers have put forth the case that they had appointed the affected workman temporarily on 10-10-1969, that they had retrenched his services with effect from 15-3-1970 as the temporary works on which he was appointed were completed and that the services of the affected workman were no longer required. But they have not clarified as to what those temporary works were on which the affected workman was appointed and when those works were completed. According to the workmen the affected workman was appointed on 29-9-1956 as a mechanic by M/s. Bokaro & Ramgarh Ltd. in their Dhori Colliery, he was subsequently transferred to Kedla Colliery in 1969 in the same post, he continued to perform the statutory duties under the Coal Mines Regulations, 1957 as he sole mechanic of the colliery even after taking over of the colliery on 10-10-1969 by the Receiver, the present employers and his services were retrenched under Ext. W.1 without any justification. In support of this case there is the oral evidence of the affected workman, WW.4. WW.1 is an overman in the colliery. According to WW.1 the affected workman was the only mechanic in the colliery and after termination of his services a new person by named Laliteswar Jha has been appointed, who is ever since working as a mechanic and discharging the same duties which were previously being performed by the affected workman. WW.2 was the manager of the colliery, but I do not like to refer to his evidence, inasmuch as he does not appear to me an independent witness. Similarly, I do not find the evidence of WW.3 also of much use as he is the general secretary of the union and, naturally he is expected to depose in support of his own case. Ext.W.19 is the letter by which the Constituted Attorney of M/s. Bokaro & Ramgarh Ltd. had appointed the affected workman as a mechanic at Dhori colliery with effect from 29-9-1956. Exts.W.15 and W.16 are log books of the affected workman covering the period from 1-1-1964 to 21-12-1969, showing that during the period he was checking pumps, vertical boiler and compressors, etc. Ext. W.18 is a certificate from the manager of the colliery dated 22-1-1970 stating that the manager had seen the affected workman working satisfactorily as a mechanic from 1962 to 1969. Ext.W.20 is a memo from the special offer of M/S Bokaro & Ramgarh Ltd. requiring the affected workman to repair the ambulance van. Ext.W.21 is a testimonial from the manager of the colliery dated 28-4-1958 certifying that the affected workman was working in the colliery as a motor mechanic from 24-9-1956. Ext.W.22 is a memo from the manager of the colliery dated 12-6-1965 to the affected workman sending him the abstract from the Coal Mines Regulation, 1957 for his daily reference and guidance in his inspection duty. Now, let me advert to the evidence of the agent, N. N. Jha, MW.1. In his examination-in-chief itself he has pointed out that in addition to the workmen of the employees of the contractors there were also employees appointed by M/S Bokaro & Ramgarh Ltd., the previous owners of the colliery, that immediately before 10-10-1969

the manager, overman and other technical staff who were working there were appointed by M/S Bokaro & Ramgarh Ltd. and that the technical staff included in it mechanics. He has specifically stated that the affected workman was one of those appointed by M/S Bokaro & Ramgarh Ltd. and he was working immediately before 10-10-1969, looking after some of the diesel pumps in the colliery and motor vehicles. Therefore, it emerges that the affected workman was a mechanic appointed by the previous owners and he continued working as such till 10-10-1969 when the colliery was taken over by the Receiver, the present employers. The agent, MW.1 continued to say in the same examination-in-chief that the affected workman was taken over by the Receiver from 10-10-1969 and he was entrusted by the Receiver the duties of looking after the pumps and he worked in the above capacity till 15-3-1970. The plea of the employers was that the affected workman was appointed on 10-10-1969 on temporary basis. But the agent, MW.1, who is the solitary witness for the employers, does not show any order by which the affected workman was appointed. From the evidence of the agent, MW.1. and the pleading of the employers it appears that the employers wanted to show that services of all the workmen appointed by the previous employers, M/S Bokaro & Ramgarh Ltd. were terminated on 10-10-1969 and fresh appointments were made from 10-10-1969. But this plea cannot sustain on the material on record. As I have pointed out earlier, the Court of the Subordinate Judge, Hazaribagh passed an order on 6-10-1969 appointing a Receiver for Kedla and other collieries and on 7-10-1969 appointed P. K. Misra, I. A. S., as the *ad-interim* Receiver. The order appointing him as such is Ext. M6. This order shows that P. K. Misra was to perform all the duties of Receiver in the matter of running, managing and looking after all the properties including the mines and mineralogy and he was also allowed to appoint Shri N. N. Jha, MW.1 as his agent. Ext. M7 is an order of the same Court dated 4-8-1970 on the proposal of the Receiver to appoint managing contractors in the Kedla and Jharkand Blocks of Mines. Para 2 of the order itself shows that from 10-10-1969 P. K. Misra had "allowed the old order of things in the matter of running and managing the mines to continue just as a stop gap arrangement by way of maintaining *status-quo* with the result that the old so called big contractors like P.N.F Group, P. D. Agarwalla and Gopal Prasad were allowed to work the mines" till 14-3-1970 when K. A. Subramaniam, I.A.S. came to be appointed as the Permanent Receiver. From these orders of the Court it emerges that between 10-10-1969 and 14-3-1970 the *ad-interim* Receiver, P. K. Misra did not make any change but continued the old order of things in the matter of running and managing the colliery and keeping the management in *status-quo*. In this view of the matter the contention of the employers and the statement of the agent, MW.1 that on 10-10-1969 services of all old employees were terminated and fresh appointments were made, inclusive of the appointment of the affected workman from 10-10-1969 cannot be accepted as true. The agent, MW.1 explains the circumstances under which the services of the affected workman were found surplus resulting in termination of his services. He says that it was found that pumps and other things were subject matter of contractors and it was their business to look after those pumps and, therefore, the services of the affected workman were not needed by the Receiver and as such he was given a notice terminating his services. But it must be remembered that managing contractors came to be appointed after the order of the Court, Ext. M.7 was passed on 4-8-1970 accepting the proposal of the Receiver and as such the services of the affected workman could have been found surplus only after 4-8-1970. But his services were dispensed with from 15-3-1970. There is no room to contend that even before the managing contractors were appointed the Receiver found that pumps and other things were subject matter of the then contractors and made alterations in the establishment and employees, because as per the order of the Court, Ext. M 7. nothing was altered and *status-quo* was maintained. Such things could possibly be done after the order of the Court. Ext. M7 was passed on 4-8-1970 and managing contractors were appointed. This view is supported by the notice, Ext.W.2 issued to an overman on 5-10-1970. The notice says "as per order dated 4-9-70 of the Court of the Subordinate Judge, Hazaribagh in T.S. No.16/61 State of Bihar v. M/S Bokaro Ramgarh Ltd. the managing contractors have (been) appointed for running and management of Kedla Jharkand colliery. In view of the above change your services have become surplus to our requirement". In view of this material the notice, Ext. M5 dated 14-11-1969 saying

that services of all the workmen of the colliery under the previous employers stand terminated as from 10-10-1969, could not be true and cannot be accepted as true. Barring the evidence of MW.1 there is no evidence to show that the notice was issued or displayed on the notice board on 14-11-1969. I do not find any reason to reject the suggestion of the workmen that the notice, Ext. M5 is spurious and brought into existence subsequently. For these reasons I find that prior to the order of the Court, Ext. M7 dated 4-8-1970 there could be no occasion for the employers to find the services of the affected workman as surplus warranting his retrenchment. There is further material to show that in fact the affected workman was not surplus to the requirements of the colliery. As I have already pointed out the evidence of WW.1 supports this view in addition to the evidence of the affected workman, WW.4. WW.1 has deposed that one Laliteshwar Jha is appointed to perform the duties of a mechanic after the services of the affected workman were dispensed with and he is doing the same job which was previously done by the affected workman. Ext. M3 is an application of Laliteshwar Jha and an order was passed on it appointing him as a mechanic. MW.1 also admits that a fitter has to attend to haulage pumps as well as other machineries and such a qualified fitter has to make entries in log books. I have already pointed out that the affected workman was maintaining the log books, Ext. W.15 and W.16 upto 20-12-1969 even after the colliery was taken over by the Receiver on 10-10-1969. There is no evidence that there was any other workman apart from the affected workman who could discharge these statutory duties till Laliteshwar Jha was appointed. As a result of my above discussion I find that the services of the affected workman could not be found surplus justifying his retrenchment with effect from 15-3-1970. Now the law is settled that "retrenchment" as defined in S.2 (oo) of the Industrial Disputes Act, 1947 has no wider meaning than the ordinary accepted connotation of the word, which means the discharge of surplus labour or staff by the employer for any reason whatsoever otherwise than as punishment inflicted by way of disciplinary action, and for any of the reasons falling under sub-sections (a), (b) and (c) of the definition. (See *Barsi Light Railway Co. Ltd. v. Jogelkar* 1957-1-L.L.J. 243).

7. The case of the workmen is that the affected workman was retrenched because of his trade union activities. The affected workman, WW.4 has in his evidence that since about 3 months after taking over of the colliery he became a member of the executive committee of the union. Towards the end of December, 1969 he was transferred to Hazaribagh. He had protested against it, but he had to go and comply with the order. He worked in the office at Hazaribagh for about a week and thereafter his union raised the dispute and went to conciliation and on this he was returned to the colliery. His services were terminated after about three months of his returning from Hazaribagh. WW.3, the general secretary of Koyala Shramik Sanghatan has deposed that the affected workman is a member of the executive committee of the union at the branch and the witness had sent a list of executive committee members of the branch to the management of the colliery under his signature. He further deposed that the union had protested against the transfer of the affected workman to Hazaribagh, that he had sent a letter to the management of the colliery threatening direct action if their grievances were not met and one of the grievances was the transfer of the affected workman and that in that connection they had issued a pamphlet, Ext. W.9 Ext. W.9 is a printed pamphlet in Hindi threatening direct action if the demands were not met. Demand No. 10 related to the illegal transfer of the affected workman and one other who are members of the executive committee. Ext. W.10 is also a notice dated 11-1-1970 for the meeting of the executive committee to consider the direct action proposed in Ext. W.9, and other matters. The notice shows the name of the affected workman at Sl. No. 18 as one of the executive committee members. Ext. W.11 is the complaint of the union to the Assistant Labour Commissioner(C), Hazaribagh dated 3-4-1970. In this letter also it was mentioned that the affected workman was a member of the working committee of the union. Ext. W.14 is a letter dated 7-1-1970 sent by WW.3, to the manager of the colliery providing him with the names of the executive committee members of the union and the name of the affected workman is mentioned at Sl. No. 12. This material probablise the plea of the workmen that the affected workman was victimised for his trade union activities. It also appears from the evidence on

record that even after appointment of the managing contractors there are some mines which are directly under the Receiver and, as such there will not be any difficulty for the Receiver to reinstate the affected workman as a mechanic. It is the evidence of WW.1, an overman of the colliery that some mines of the colliery are under the Receiver. He further deposed that when a pump goes out of order the contractor sends information to the office of the Receiver and from the office a mechanic is sent to repair the pumps. He has flatly denied the suggestion that the contractors have their own fitters and those fitters repair the pumps.

8. As a result of my above discussion, I find that the management of the Kedla colliery is not justified in retrenching the services of the affected workman, Yakub Toppo, mechanic of the colliery with effect from 15-3-1970 and, consequently, the affected workman is entitled to his wages and other benefits from 15-3-1970 till the date of his actual reinstatement, as though his services were never retrenched or terminated. The award is made accordingly and submitted under S.15 of the Industrial Disputes Act, 1947.

N. VENKATA RAO, Presiding Officer

New Delhi, the 30th November, 1972

S.O. 4154.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the management of East Chora Colliery of Messrs East Chora Colliery Company Limited, Post Office Bahula, District Burdwan and their workmen, which was received by the Central Government on the 28th November, 1972.

[No. L-19012/81/71-LRII]

KARNAIL SINGH, Under Secy.

AWARD

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 122 of 1971

Parties : Employers in relation to the management of East Chora Colliery of Messrs East Chora Colliery Company Limited,

AND

Their workmen.

Present :

Shri S. N. Bagchi—Presiding Officer.

Appearance :

On behalf of
Employers Sri G. S. Singh, Manager.

On behalf of
Workmen Sri S. N. Banerjee, Advocate.

State : West Bengal

Industry : Coal Mine

AWARD

By Order No. L/1912/81/71-LRII, dated the 16th December, 1971, the Government of India, in the Ministry of Labour and Rehabilitation (Department of Labour and Employment), referred the following industrial dispute existing between the employers in relation to the management of East Chora Colliery of Messrs East Chora Colliery, Company Limited, and their workmen, to this Tribunal, for adjudication, namely :

"Whether the action of the management of East Chora Colliery of Messrs East Chora Colliery Company Limited, Post Office Bahula, District Burdwan in denying the claim for permanency to Sarvashri Badhe Mistry, Pulin Bouri, Banarshi Mistry, Bhola Bouri, Blacksmiths and Ambika Mistry, Baleshwar Mistry, Prabhu Barahi and Gangadhar Bouri, Hammermen, is justified? If not, to what relief are these workmen entitled and from what date?"

2. To-day, i.e. 22nd November, 1972, is the date for hearing of the reference. The management is represented by the Manager of the Colliery and the union is represented by its duly appointed lawyer Mr. S. N. Banerjee, the learned Advocate. The parties have entered into a compromise the terms whereof have been embodied in the compromise petition which have been filed and moved by both the representatives of the parties. I have gone through the terms of the compromise petition which appear to the just, fair, equitable and beneficial to the interest of the workmen involved in the dispute.

3. I therefore record the terms of the compromise as embodied in the petition and such petition shall form part of the award.

This is my award.

S. N. BAGCHI, Presiding Officer.

Dated the November. 22, 1972.

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, CALCUTTA

Reference No. 122 of 1971

In the matter of an industrial dispute
BETWEEN

The Employers in relation to the management of East Chora Colliery of Messrs East Chora Colliery Company Ltd; P.O. Bahula, District, Burdwan.

AND

Their workmen, represented by Colliery Mazdoor Congress (H.M.S.), Md. Hossain Street, Bengal Hotel, P.O. Asansol, District, Burdwan.

AND

In the matter of Government of India, Ministry of Labour and Rehabilitation, Department of Labour and Employment, Order No. L/1912/81/71-LRII dated 16th December, 1971.

The humble joint petition of the parties above named in the aforesaid matter.

Most Respectfully Sheweth :

1. That the aforesaid matter is pending adjudication before this learned Tribunal and today is fixed for hearing of the same.

2. That in the meantime the aforesaid parties have reached an amicable settlement of the dispute mutually on the following terms :—

TERMS OF SETTLEMENT

- (a) The parties to this reference hereby agree to compromise the dispute on the terms detailed below.
- (b) That the workmen admit that the workmen named in the order of reference were not permanent employees of the East Chora Colliery.
- (c) That as a genuine gesture of good-will and in order to maintain cordial labour relation between the management and the workmen, the Employers hereby agree to take in with effect from 1-12-1972 the following workmen as "general mazdoor" (unskilled) on piece-rated basis, and their wages will be paid as Wage Board Recommendations in Group I: (1) Ambica Mistry, (2) Bhola Baouri, (3) Pulin Baouri Gangadhar Baouri, (5) Baleswar Mistry and (6) Banarasi Mistry.
3. That the workmen withdraw all their claims in respect of the workmen namely, Radha Mistry and Prabhu Barahi.
4. That the terms of settlement are reasonable and fair and the parties submit and contend that the same may be given as an Award by this learned Tribunal.

In the circumstances stated above the parties pray that your honour may be pleased to accept the said settlement and give an award incorporating the terms of the settlement as part of the award.

And the petitioners, as in duty bound, shall ever pray.

For the employer

Sd.
(Manager
East Chora Colliery.

For the workmen

B. M. TIWARI
Organising Secy.,
Colliery Mazdoor Corpns.
Bengal, Hotal, Asansol

New Delhi, the 6th December, 1972

S.O. 4155.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3 Dhanbad, in the industrial dispute between the employers in relation to the management of Barora Colliery of Messrs Barora Coal Concern, Post Office Nawagarh, District Dhanbad and their workmen, which was received by the Central Government on the 29th November, 1972.

[2/124/69-LRII.]

KARNAIL SINGH, Under Secy.

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 3, DHANBAD.

Reference No. 64 of 1969

Present: Shri B. S. Tripathi,
Presiding Officer.

Parties: The employers in relation to the management of Barora Colliery of M/s. Barora Coal Concern.

AND

Appearances: For Employer—Shri B. Joshi, Advocate.

For Workmen —Shri P. Chowdhury, Advocate and Shri R. P. Pandey, President, D. J. Raj Nudkharkee Collieries Workers' Union.

Industry : Coal

State : Bihar

Dhanbad, the 25th November, 1972.

AWARD

The Central Government in the Ministry of Labour, Employment & Rehabilitation, (Department of Labour & Employment) being of the opinion that an industrial dispute exists between the parties aforesaid in respect of the matters specified in the schedule of reference, by Order No. 2/124/69-LRII dated the 15th September, 1969 referred the said dispute under Section 10(1)(d) of the Industrial Disputes Act, 1947 to this Tribunal for adjudication. The schedule is extracted below :

SCHEDULE

"Whether the action of the management of Barora Colliery of M/s. Barora Coal Concern, P.O. Nawagarh, Dist. Dhanbad in reducing the rate of wages of weekly paid workmen with effect from the 26th November, 1968, was justified? If not, to what relief are the workmen entitled?"

2. The reference was received in this Tribunal on 26-9-1969 and was registered as reference No. 64 of 1969. The parties filed their respective written statements preferring claims made therein. The reference was ready for hearing when the parties amicably settled their dispute out of Court and filed a compromise petition duly signed by their authorised representatives who verified the compromise before me and prayed for making an award in terms of the settlement embodied in the compromise petition.

3. The compromise petition was filed on 11-10-1972. Soon after the filing of same objections were raised by certain persons not to give effect to the compromise and those objections were finally disposed of as per order passed on 24-11-1972. Hence there was delay in making the award.

4. I have carefully persued and considered the terms of settlement embodied in the compromise petition in the light of the reference and the cases of the parties made out in their written statements and I find that the terms of settlement are quite fair, just and equitable. I see no reason as to why an award shall not be made in terms of the compromise arrived at by the parties and I make the award accordingly. The compromise petition will form part of the award and be attached to it as Annexure 'A'.

5. This is my award. Let the award be submitted to the Central Government under Section 15 of the Industrial Disputes Act, 1947.

B. S. TRIPATHI, Presiding Officer.

ANNEXURE 'A' Before

The Presiding Officer,
Central Govt. Industrial Tribunal No. 1,
Dhanbad.

Reference No. 64 of 1969

Employers in relation to Barora Colliery.

AND

Their Workmen

Joint petition of compromise :

The employers and the workmen above-named beg to state as follows :—

1. That the Central Government has referred the following dispute for adjudication of this Hon'ble Tribunal:—

SCHEDULE

"Whether the action of the Management of Barora Colliery of M/s. Barora Coal Concern, P.O. Nawagarh, Dist. Dhanbad in reducing the rate of wages of weekly paid workmen with effect from the 26th Nov. 1968, was justified? If not, to what relief are the workmen entitled?"

2. That the Union, which is the party in this reference was not aware of the financial position of the employers and the earlier settlements arrived at with the colliery Mazdoor Sangh of the Barora Branch, and demanded wages to be paid to the workmen in accordance with the Wage Board Recommendations.

3. That the Union is fully convinced of the stands taken by the Employers and do not wish to press its demands further.

4. That both the parties to this present reference have settled the present dispute on the following terms :—

Terms of the settlement

1. That the Management will continue to pay wages to the workmen in terms of the settlement dated 24-11-68 entered into between the management and the colliery Mazdoor Sangh Barora Branch till week ending 27-11-72. A copy of the settlement dated 24-11-68 is Annexure 'A'.

2. That after 27-11-72 the Management will start paying wages only in accordance with the recommendations of the Central Coal Wage Board after properly fixing the workmen in proper categories.

3. That the management shall pay the dearness allowance at the rate of 0.78 paise only with effect from 27-11-72.

4. That the existing conditions of service regarding other matters will continue.

5. That this settlement will not confer any right on the Union to recognition by the Management and that the question of recognition will be decided if necessary as per the provisions of the Code of Discipline in Industry keeping in view of the existing strength of the respective Unions.

6. That this agreement will remain in force till 27-11-1975.

7. That in view of the above settlement, the present dispute stands resolved.

It is humbly prayed that the Hon'ble Tribunal be graciously pleased to accept the terms of the settlement as fair and reasonable and be pleased to pass the award in terms of this settlement.

For the workmen

For the Employers

(Sd.) President

(Sd.) Partner

ANNEXURE 'A'

COPY

Representing the memorandum of settlement arrived at between the management of Barora Colliery and the colliery Mazdoor Sangh representing the workmen on 24-11-1968 alongwith workmen.

Representing the Employers—

Sri M. P. Narang.

Agent, Barora colliery.

Representing the workmen—

1. S. P. Singh G/Secy. C.M.S.
Barora colliery branch.

2. A. L. Sharma, Secretary,

3.

4.

5.

SHORT RECITAL TO THE CASE

Although the financial position of the Barora colliery was not such to fully implement the wage Board recommendation on the demand of the management agreed to pay to the workmen their wages according to the Wage Board recommendations as a trial measure to see if the management could bear the increased wage bill. It has been found that the financial position of the management is not such as to continue the payment to the workman as per wage board recommendations and in case of insistance it may lead to large scale retrenchment or even closure of the colliery. In view of the larger interest of the workmen it has been agreed between the parties as follows :—

TERMS OF SETTLEMENT

1. The management will continue payment of wages to the workmen with effect from week ending 1-12-1968 at the rate higher than the L.A.T. decisions, minors @ Rs. 5.50 per tub of 36Cft. excluding lead and lift.

2. That the management will continue to pay the other categories of workmen wage higher than the L.A.T. decisions.

3. That the rate payable to the minors and wagon loaders will be reviewed after one year and if the financial position of the company so permits their rate will be suitably increased after discussions with the representative union's official.

4. Wagon loadings C/23/- St/lk. 22.50/Wgn. acreeling/ton.

For workmen :

1. Sd./ Sidheshwar Pd. Singh.
24/11/68.

2. Sd./A. L. Sharma Secretary.

3. Sd./Ramsagar Nonia.

4. Sd./Murli Kumhar.

5. Sd./L. T. Sukra Kumar.

6. L. T. of Chunu Manjhi.

For Employer:

7. Sri M. P. Narang Agent.
Barora Colliery dt. 24-11-68
Sd/24-11-68.

8. L.T.T. of Dukhi Beldar.

9. L. T. of Babulal Manjhi.

10. Sd/Darbari Manjhi.

Witness :

B. R. Mehra Sd/ 24-11-68.

Motilal Kumhar Sd. 24-11-68.

11. LTI of Kandan Manjhi.
12. LTI of Saicher Bhuia
13. LTI of Chandradev Nunia
14. LTI of Sibu Beldar
15. LTI of Bisu Kumhar
16. LTI Prasadi Kumhar
17. LTI Fucha Manjhi.
18. LTI Budhan Manjhi
19. LTI Khedan Manjhi
20. LTI Mangal Manjhi
21. LTI Balaram Kumhar
22. LTI Sitaram Manjhi
23. LTI Mausam Kumhar
24. LTI Roopchand Manjhi
25. LTI Suku Manjhi
26. LTI Bhagan Manjhi
27. LTI Durjan Manjhi
28. LTI Rameshwar Manjhi
29. LTI Gujra Kumhar
30. LTI Nayan Manjhi
31. LTI Naizhlu Manjhi
32. LTI Churka Manjhi
33. Sd/ Sonaram Mahato
34. LTI Maha Manjhi
35. LTI Musodi Manjhi
36. LTI Gosai Manjhi
37. LTI Karma Manjhi
38. LTI Kandan Manjhi
39. LTI Lubin Manjhi
40. LTI Bansa Manjhi
41. LTI Suklu Manjhi
42. LTI Lapsa Manjhi
43. LTI Sobran Manjhi
44. LTI Charan Manjhi
45. LTI Nanku Manjhi
46. LTI Chando Manjhi
47. LTI Somra Manjhi
48. LTI Sibu Manjhi
49. Sd/ Sitlal Manjhi
50. LTI Puran Manjhi
51. LTI Guhi Mandal
52. LTI Babulal Manjhi

New Delhi, the 6th December, 1972

S.O. 4156.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Hyderabad, in the industrial dispute between the employers in relations to the management of Ramagundam Division No. 1 of Singareni Collieries Company Limited, Post Office Godavari Khani (Andhra Pradesh) and their workmen, which was received by the Central Government on the 22nd November, 1972.

[No. 7/27/70-LR II]

KARNAIL SINGH, Under Secy.

BEFORE THE INDUSTRIAL TRIBUNAL, (CENTRAL),
AT HYDERABAD

Present:

SRI P. S. ANANTH, B.Sc., B.L.,

Presiding Officer

INDUSTRIAL TRIBUNAL (CENTRAL),
HYDERABAD.

Industrial Dispute No. 14 of 1971

Between:

Workmen of Singareni Collieries Co. Ltd., Ramagundam Division No. 1.

AND

Management of Singareni Collieries Co. Ltd., Ramagundam Division No. 1.

Appearances:

Sri A. Lakshmana Rao, Advocate for Workmen.

Sri M. Shyam Mohan, Personnel Officer, Bellampalli and Sri P. Papa Rao, Division Personnel Officer, Godavari Khani for Management.

AWARD

The Government of India, Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) by its Order No. 7/27/70-LR-II dated 5-1-1971 referred the following dispute under Section 10(1)(d) of the Industrial Disputes Act, 1947 (hereinafter referred to as the said Act) for adjudication to this Tribunal, namely:—

“Taking all the circumstances of this case into consideration, whether the management of Ramagundam Division No. 1 of Singareni Collieries Company Limited is justified in refusing to give Category VI (new) to Sri Ahmad Ali, Carpenter-cum-Pattern maker in the Workshop of the Division? If not justified, to what relief is the said worker entitled?”

This reference was taken on file as Industrial Dispute No. 14 of 1971 and notices were issued to the parties. For the purpose of convenience the workmen of the Singareni Collieries Company Limited, Ramagundam Division No. 1 are referred to as the petitioners and the Singareni Collieries Company Limited, Ramagundam Division is referred to as the respondent in the course of this award. The claimant in this case is one Ahmed Ali who is said to be Carpenter-cum-pattern maker.

2. The petitioners are represented by the Andhra Pradesh Singareni Collieries Mazdoor Sangh (hereinafter referred to as the said Sangh). The President of the said Sangh filed a claims statement on behalf of the petitioners contending as follows:—Ahmad Ali is a permanent employee working in the Workshop of Ramagundam Division No. 1. He is a trade certificate holder of I.T.I. in carpentry and he is designated as Carpenter. He does highly skilled work in carpentry. He is engaged in pattern making work which requires high degree of skill. He does the pattern work referred to in the claims statement. The Central Wage Board for Coal Mining Industry submitted its recommendations as regards the categorisation and wage structure. The Company implemented the Wage Board Recommendations with effect from 15-8-1967. As per recommendations of the Wage Board the workman doing highly skilled job is placed in new Category VI but curiously the Management placed Ahmad Ali in new Category V. In the course of Conciliation proceedings the Management admitted that the workman does the job of pattern making but contended that the work of pattern making is much less compared to other types of carpentry work done by him. The method of analysis adopted by the Management in the assessment of skill required in the work is incorrect. When there is no doubt that the work of pattern making is a highly skilled job and that the workman Ahmad Ali is doing the work of pattern making, the Management should have placed the workman in Category VI (new) while implementing the Wage Board Recommendations. The Labour Enforcement Officer, Mancherial enquired into the nature of work that is being done by the workman. The workman understands that the Labour Enforcement Officer found on enquiry that this workman was doing the work of pattern making. So the management may be directed to give new Category VI to Ahmad Ali with effect from 15.8.1967 with back wages.

3. The respondent in its counter contended as follows:—The reference is essentially in the nature of conferment of

promotion to the workman. The Government in its reference had created a designation of 'Carpenter-pattern-maker' which is not found in any of the awards or in the wage schedule. Originally the claimant was asked to work as a carpenter in old category VII which is equivalent to category V (new). So he was correctly fixed at the time of Wage Board Recommendations and paid accordingly. Whatever works of pattern making were entrusted to him were of elementary nature which is the job of any other carpenter. It is denied that he can discharge the duties of the pattern maker the job description of which as shown against Serial No. 10 "Pattern Maker-grade I" (page No. 50, Vol. 2 of Central Wage Recommendations Report of Coalmines). The job description falls under Category VI highly skilled which the workman was not performing or made to perform. The workman cannot also be fitted under job description of Serial No. 22—pattern maker (page 49 of Vol. 2). The Management is the appropriate authority in assessing capability or otherwise of a skilled workman, especially in matters purely of technical nature. The workman never protested when the recommendations were implemented nor did he appeal as per the procedure prescribed by the management. The submission of the management both at the time of conciliation and now is to the effect that the jobs of pattern making entrusted to the workman is incidental and connected with the work of carpentry. It was a *bonafide* statement of the details of work done by the workman but that does not confer a designation unless he is a full time worker on a particular category of work. It is denied that there is incorrect assessment of the skill of the workman as alleged. The L.E.O., Mancherial or the workman could not come to a conclusion over the details of work undertaken by the workman. In respect of strength and categorisation of pattern maker in Ramagundam Division there is no post of pattern maker in Category VI (new) and hence when there is no post the workman cannot insist on promotion. The workmen are aware of the principles laid down in bipartite agreement between the management and the representatives of the Union in respect of the strength and categorisation accepted method of the promotion also and on the issues of qualification and experience involved. So the claim of workman has to be dismissed.

4. The dispute that is now referred to this Tribunal for adjudication is taking all the circumstances of this case, whether the respondent is justified in refusing to give Category VI (new) to the claimant, Carpenter-cum-Pattern maker in the workshop of Ramagundam Division No. 1?

5. It is common ground that the claimant, who has been examined as W.W. 1 is working in the workshop of Ramagundam Division No. 1. According to W.W. 1 he has got I.T.I. Carpenter Trade certificate, that he is working as Pattern Maker, that considering the nature of the skilled work that he is doing he should have been placed in new Category VI at the time of implementation of the recommendations of the Wage Board but he has been placed only in new Category V and so he should be given new category VI since under the Wage Board Pattern Makers are recommended new Category VI. The contentions of the respondent are that the Government in its reference had created a designation "Carpenter Pattern Maker" when there is no such designation found in the awards or in the wage schedule, that the works of pattern making entrusted to the claimant are of elementary nature which is the job of any other carpenter, that originally the claimant was asked to work as carpenter in old Category VII which is equivalent to new Category V and so Category V was correctly fixed at the time of implementation of the recommendations of the Wage Board, that the present claim of the claimant is one for promotion and that it is the management which is the appropriate authority for assessing the capability or otherwise the skill of the workman, and that there is no categorisation of pattern maker in Ramagundam Division in Category VI (new) and that when there is no such post the workman cannot insist on promotion and that the workman also is aware of the principles laid down in the bipartite agreement entered into between the Management and the representatives of the Unions.

6. W.W. 1 says that he had passed Carpentry, that the certificate does not specifically state that he had passed in Pattern making, that he was promoted as Carpenter to old Category VII in November, 1966, that from 15-8-1967 the old Category VII is equated to new category V, that when he was given this new Category V as Carpenter he did not

given any written application that he should be placed to category VI as Carpenter Pattern Maker but he orally told Assistant Engineer in the workshop that he sent an application to the Management Ex. M. 1 through his Union in November, 1969, that it is only highly skilled job that he is doing in the workshop, that because he is doing the same work that is done in other workshops he says that he is doing highly skilled job, that in the Wage Board Recommendations there are categories V and VI for Pattern Makers, that he did pattern repairing work for 40 days during the period of six months, that it is not correct to say that his work comes under new Category V and so the Management who should know about the nature of work done by him had placed him in category V. W.W. 2 (Nizam Farook Ali Baig) is working as Moulder. He says that W.W. 1 is working in the same workshop as Pattern Maker, that their moulding section cannot work without a pattern maker, that there is no other pattern maker besides W.W. 1 and that in the moulding section there are no Carpenters. In his cross examination he says that he was working in old category IX at Ramagundam prior to his being given new Category VI, that he got new Category VI as per the Wage Board and that W.W. 1 was working in lower category than him when he was working in old category IX. He also says that there are six carpenters working in Bellampalli workshop, that they were not given appointment as Carpenter-cum-pattern maker.

7. M.W. 1 (A. Satyanarayana) is working as Assistant Engineer. He says that W.W. 1 was promoted to old Category VII on 27-11-1966, that after Wage Board old Category VII was equated to new Category V, that there is no designation as Carpenter-cum-Pattern Maker in his Division, that one by name Rajeelu now and then makes pattern and so also W.W. 1 that for pattern making one should be able to read the writing and he should have knowledge of machines as well as moulding, that this kind of work was not done in Ramagundam Division, that in Ramagundam Workshop, normally the work done by W.W. 1 is whenever small patterns like pedestals, Bevel Pulleys, couplings etc. are to be done he does this work and when there is no pattern work he would be doing the Carpentry work in the workshop such as repairs of wooden portions of lorries doors etc., that W.W. 1 is doing the work of Grade II Pattern Maker as per the job description of the Wage Board, that Pattern work will not be there daily, that no representation was made by W.W. 1 when he was placed in new Category V, that W.W. 1 is the person who supervises the work of W.W. 1, that there is no designation of pattern maker in his workshop at all, that they do not have Grade I Pattern Maker as per the Wage Board. In his place as it pertains to the workshop that this Grade I Pattern Makers is only in other workshops in Andhra Pradesh, that there was no occasion to trade test W.W. 1, that he received the circular the original of Ex. M 2, that item 10 in Ex. M 2 relates to other artisans and craftsmen and it includes Carpenters also and that as per Ex. M 2 old Categories VII and VI are equated to new category V. He also says that there is no other Carpenter in moulding Section apart from W.W. 1, that for every moulding section the Carpenter is necessary, that no patterns are made at Ramagundam, that patterns are copied from old patterns got from Bellampalli in the beginning, that as per the Tradesmen agreement there is category VII Pattern Maker designation, that he does not think W.W. 1 is capable of making the patterns if a drawing is given, that W.W. 1 is working as Pattern Maker since 1965 that no one worked as Pattern Maker prior to him in G. D. K. and that it is not correct to say that the job in the moulding section are highly skilled work.

8. Now from the evidence of the witnesses referred to, it is seen that first of all there is no designation as Carpenter-cum-Pattern Maker. So there is force in the contention of the respondent's representative that when there is no such designation as Carpenter-cum-pattern maker, the reference made as if there is designation as Carpenter-cum-Pattern Maker and that the respondent has refused to give Category VI (new) to W.W. 1 described as Carpenter-cum-Pattern Maker is an invalid reference. So when there is no such designation as Carpenter-cum-Pattern Maker the question of the respondent refusing to give any category of Carpenter-cum-Pattern Maker to W.W. 1 does not arise and so the reference is liable to be rejected on this ground alone as contended by the respondent's representative.

9. If for a moment the designation "Carpenter-cum-Pattern Maker" referred to in the reference is ignored and if it

is assumed that the reference relates to Pattern Maker now it has to be seen whether the respondent is justified in not giving new Category VI to W.W. 1. Now from the evidence already referred to it is clear that W.W. 1 has been doing some pattern work entrusted to him. From the evidence of W.W. 1 it is seen that he had obtained only a Carpentry Certificate but not a certificate as Pattern Maker and that now and then he used to be given some pattern making work and that at other times he used to be doing the work of Carpenter and that the nature of work done by W.W. 1 was Grade II Pattern Maker as per job description of the Wage Board and that there is no Grade I Pattern Making so far as this Company is concerned. A perusal of Item No. 22 in page 49 of the report of the Central Wage Board for Coal Mining Industry Vol. 2 shows that a workman capable of carrying out the work of a pattern maker Grade I, but having less skill or experience is designated as Pattern Maker Grade II under the Category V (skilled senior) whereas workman capable of reading drawings and making patterns in accordance with such drawing and having sufficient knowledge of machines and moulding technique to enable to produce satisfactory pattern is designated as Pattern Maker Grade I under Category VI (highly skilled) as seen from page 50 of the same Appendix V. It is now seen that considering the nature of the work done by W.W. 1 at the time of implementation of the recommendations of the Wage Board W.W. 1 was placed in new Category V and his new category includes Pattern Maker Grade II as seen from Appendix V of the recommendations of the Wage Board referred to already. So, as contended by the respondent's representative, the present claim is virtually a claim of promotion to higher category and so far as the question of promotion is concerned it is only a Managerial function and the Tribunal cannot assume that function and given the claimant new Category VI which includes Pattern Maker Grade I. M.W. 1 says that there was no occasion for him to trade test W.W. 1. So the question of giving a higher category now claimed by W.W. 1 would arise only after he is purely within the purview of the Management. It is also now in evidence that old category VII was equated to new Category V at the time of the implementation of the recommendations of the Wage Board on 15-8-1967 by the Management and that W.W. 1 did not raise any objection at that time. It is only in the year 1969 as seen from Ex. M. 1, that the said Sangh has raised this dispute for the first time and this also only shows that W.W. 1 himself was satisfied about new Category V given to him and that it is only by way of an after-thought the present belated dispute had been raised. So, under the circumstances of this case it cannot be said that the respondent is not justified in fixing W.W. 1 in new Category V at the time of implementation of the recommendations of the Wage Board.

10. Even if for a moment it is assumed that considering the nature of the work done by W.W. 1 he should be given the job of Pattern Maker Grade I and placed in new Category VI, as rightly contended by the respondent's representative, if there is any such post in the Division where W.W. 1 is working and if he is not given that post at the time of implementation of the recommendations of the Wage Board then there may be some force in the contention of the petitioners, that W.W. 1 had been wrongly fixed in new Category V instead of fixing him in new Category VI. W.W. 1 says that he is the only Pattern Maker in Ramagundam Workshop, that there are two carpenters working in the workshop who are in new Category V, that there are workshops at Kothagudem and Bellampalli, that there are three carpenters in Kothagudem and that they are in new Category VI and there are two Pattern Makers at Kothagudem and out of them one is in Category VI and the other is in monthly grade which is higher than category VI, that there is workshop in Bellampalli where there are four carpenters and two Pattern Makers, that those carpenters are in category VI and the Pattern Makers are in the monthly grade, that there is no difference in the nature of work done by him and the pattern work done by the pattern workers in those two workshops and so he is asking for category VII. He himself admits that he was promoted as Carpenter to old Category VII in November, 1966. From his own evidence it is seen that there is no Pattern Maker's post as such in this Ramagundam Division. W.W. 2 says that he was working in old Category IX at Ramagundam prior to his being given category VI, that W.W. 1 was working in lower category when he was working in old category IX. The evidence of M.W. 1 shows that W.W. 2 is a person who supervises the work of W.W. 1 and he also says that as a

matter of fact there is no designation as Pattern Maker in his workshop and that one Razeelu, whose name is also mentioned by W.W. 1, can also make the patterns. So when there is no post of Pattern Maker as such in the workshop at Ramagundam the question of designating W.W. 1 as Pattern Maker and fixing him in new Category VI does not at all arise. If at all W.W. 1 is to be given new Category VI that contingency would arise only when he is trade tested and found fit and in that case he has to be promoted and transferred to a place where there is the post of pattern Maker in new Category VI. In any view of the matter I am satisfied that the respondent is justified in refusing to give new Category VI to W.W. 1.

11. For all the aforesaid reasons I hold on the dispute referred for adjudication by this Tribunal that taking all circumstances of this case into consideration the Management of Ramagundam Division No. 1 of Singareni Collieries Company Limited is justified in refusing to give Category VI (new) to Ahmad Ali and that there is no such designation as Carpenter-cum-Pattern Maker in the workshop of this Division and so the claimant is not entitled to any relief.

Award is passed accordingly

Dictated to the Stenographer, transcribed by him and corrected by me and given under my hand and the seal of this Tribunal this the 10th day of November, 1972.

P. S. ANANTH, Presiding Officer.

APPENDIX OF EVIDENCE

Witnesses examined For Workmen.	Witnesses examined For Employers.
W.W. 1 Ahmad Ali.	M.W. 1 A. Satyanarayana.
W.W. 2 Nizam Farook Ali Baig.	
Documents Exhibited For workmen.	Documents Exhibited For Employers.
Ex. M. 1. Letter dt. 30-11-69 of Secretary, A. P. Collieries Mazdoor Sangh, Ramagundam Branch addressed to the Agent, Ramagundam Division No. 1, in respect of Ahmad Ali to desequate as Pattern Maker.	
Ex. M. 2. Minutes of discussions held at Hyderabad on 11th and 12th February, 1968 between workmen and employers of Singareni Collieries Co. Limited.	

New Delhi, the 6th December, 1972

S.O. 4157.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Hyderabad, in the industrial dispute between the employers in relation to the management of Singareni Collieries Company Limited, Post Office Kothagudem Collieries (Andhra Pradesh) and their workmen, which was received by the Central Government on the 23rd November, 1972.

[No. 7/51/68-LR II.]

KARNAIL SINGH, Under Secy.

BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL) AT HYDERABAD

Present:

Sri P. S. Ananth, B.Sc., B.L.,
Presiding Officer,
Industrial Tribunal (Central),
Hyderabad (A.P.).

INDUSTRIAL DISPUTE NO. 18 OF 1969.

Between:

Workmen of Singareni Collieries Company Limited,
Kothagudem.

AND

Management of Singareni Collieries Company Limited,
Kothagudem.

Appearances:

Sri A. Lakshmana Rao, Advocate, for workmen.
Sri V. Gopala Sastry, Assistant Personnel Officer, S. C. Co. Ltd., Kothagudem, for management.

AWARD

The Government of India, Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) by its Order No. 7/51/68-LR II, dated 3-7-1969 referred the following dispute under Section 10(1)(d) of the Industrial Disputes Act, 1957 (hereinafter referred to as the said Act) for adjudication to this Tribunal, namely:

"Whether the management of Singareni Collieries Company Limited, Post Office: Kothagudem (Andhra Pradesh) is justified in withdrawing the concession of supply of uniforms, at 50 per cent rates to female mazdoors of 'B' Power House after the implementation of the recommendation of the Central Wage Board for Coal Mining Industry? If not, to what relief are these female mazdoors entitled?"

This reference was taken on file as Industrial Dispute No. 18 of 1969 and notices were issued to the parties. For the purpose of convenience the claimants, who are female mazdoors working under Singareni Collieries Company Limited, are referred to as the petitioners and Singareni Collieries Company Limited, Kothagudem is referred to as the respondent in the course of this award.

2. The petitioners are represented by the Andhra Pradesh Colliery Mazdoors Sangh (hereinafter referred to as the said Sangh) and the General Secretary of the said Sangh filed claims statement contending as follows: The supply of uniforms to female mazdoors have been in existence for several years since 1949. Due to stoppage of the same the dispute was raised before the Central Government Conciliation Machinery and due to the unfair attitude the dispute ended in failure. During the conciliation proceedings the management contended that the supply of uniforms at 50 per cent concessional rates as a result of coal award as per paragraph 824 but it is incorrect and far from truth. The said benefit was in existence much earlier to the Coal Award. So the question that this concession was allowed to those workers whose emoluments were less than Rs. 100 as directed by the Tribunal, vide paragraph 824 of the Coal Award, does not arise at all. Supply of uniforms at 50 per cent concessional rates to all workmen of Singareni Collieries Company Limited was in force since July, 1949 as a result of an order of the then Government of Hyderabad vide their communique dated 2-1-1949 and it was also confirmed by the report of the Coal Mines Enquiry Committee appointed by the then Hyderabad Government under the Presidentship of Sri D. G. Jadhav. At page 27 of the said Jadhav Committee report, Item 3 referred to the uniforms. It is stated that the Government of Hyderabad in their communique dated 2-1-1949 have announced that they have issued orders to the Management that uniforms should be provided at 50 per cent concessional rates to all workers who have put in service of one year or more. It is evident from the above that the benefit of supply of uniforms at 50 per cent concessional rates to all workmen irrespective of their wages has been introduced in 1949. This privilege of supply of uniforms at concessional rates was protected by the Coal Award as modified by the Labour Appellate Tribunal. It is evident from the above that the benefit of issuing uniforms to all workmen at 50 per cent concessional rates irrespective of their emoluments was first time introduced in 1949. The Management's contention that as a result of implementation of the Wage Board recommendations this benefit was withdrawn since all the workers are drawing more than Rs. 100 does not hold any water. Even under the Wage Board recommendations contained in paragraph 10 of Chapter XVIII at page 165 all existing service conditions, facilities and amenities are protected. So the denial by the management to supply uniforms at 50 per cent concessional rates to female mazdoors of 'B' Power House is illegal not at all justified and it is unfair. The management had issued these uniforms at concessional rates to other departments even after issuing a circular implementing the Wage Board recommendations. As such to treat the female mazdoors of 'B' Power House differently is not justified and amounts to discrimination. The management while extend-

ing this facility even after implementing the Wage Board recommendations to other departments was denied this to the power house female mazdoors to weaken the I.N.T.U.C. since the power house is one of the strongest units of the I.N.T.U.C. unit. So the management should be directed to restore the supply of uniforms on concessional rates.

3. The respondent filed a counter contending as follows: As per the reference it is the Andhra Pradesh Singareni Colliery Mazdoors Sangh, which is the party to the dispute, but the said Union did not file the claim statement but a claims statement has been filed by one Andhra Pradesh Colliery Mazdoor Sangh. So even though there is no obligation on the part of the respondent to file any reply. The reply is filed to bring the correct facts to the notice of the Tribunal. The concessional supply of uniforms is in real sense not a uniform but supply of dress or sarrees to the workmen at subsidised rates. The then Government of Hyderabad in their communique dated 2-1-1949 have issued orders to the Management that the concessional supply of cloth at 50 per cent rates should be made to all workmen who were in service of one year or more. The Coalfields Enquiry Committee which was popularly known as Jadhav Committee prescribed the Wage scales of Coalmines' workers of Singareni Collieries for the first time and in their report referred to the above direction of the Government for issue of concessional supply of cloth. When this concessional supply of cloth was introduced as a result of the above directions, the wages of workers were very low and the minimum wage was Rs. 0-12-0 (O.S.) per day which is equivalent to 64 np. per day. Later on in 1954 when the Mazumdar Tribunal was constituted to evolve a uniform wage structure for the workers employed in Coalfields all over India, the Workers' representatives claimed concessional supply of uniforms to all workers. The Mazumdar Tribunal or All India Coal Award has given a directive that manual workers whose normal total emoluments are less than Rs. 100 p.m. should be supplied with two shirts, and two shirts at concessional rate of 50 per cent of the cost once in a year. As the then existing privileges and amenities which accrued under the earlier Award automatically stood replaced by the introduction of the awarded wages under the Mazumdar Award in 1956, the concessional supply of uniforms was continued to workers whose total emoluments were less than Rs. 100 per month as per paragraph 824 of the Coal Award. When the Coal Award was implemented the previous practice of supplying uniforms to all workers was modified in tune with the recommendations of the Coal Award and the management issued a circular in suppression of all previous instructions to all the departments to arrange supply of uniforms to manual workers whose normal total emoluments are less than Rs. 100 per month. So the supply of uniforms has definite relationship with the emoluments drawn by the workers and it is being regulated as per the direction of the Coal Award since 1956. The Wage Board has since evolved a fair wage for all workmen and minimum wage recommended is Rs. 5.00 per day exclusive of Dearness Allowance and so there is no workmen now whose total emoluments are less than Rs. 100.00 per month. The Wage Board was fully aware of the recommendations contained in the Coal Award before whom claims have been made on behalf of the workers. The Government constituted a separate Committee to go into the question of free supply of uniforms for coal mines workers and the Wage Board therefore, refrained from making any recommendations on the question of uniforms. After adopting new Wage structure on implementation of the Wage Board's Recommendations, the directions contained in paragraph 824 of the Coal Award for concessional supply of uniforms to workers whose total emoluments were less than Rs. 100.00 have no effect and the same stands automatically repealed. So concession which was enjoyed by the workmen under the specific direction of the Coal Award has neither been withdrawn nor stopped. In the present dispute claim has been put forward on behalf of female mazdoors of 'B' Power House who are not eligible for the supply of uniforms. Even though there was no justification for concessional supply of cloth after implementation of the Wage Board Recommendations, the female mazdoors in question were issued sarrees and cholis from the available stock at concessional rates on 18-3-1969 after report of failure of conciliation was submitted to the Government and before the matter was referred for adjudication. The company wanted to clear off the existing stock without selling the same in the open market. As such no dispute is existing with regard to supply of uniforms to the female mazdoors of 'B' power

House on the date of reference of the dispute. The supply of uniforms at concessional rates cannot be treated as a term and conditions of service. The dispute in this matter was raised under a mistaken impression that the workmen in question were eligible for concessional supply of uniforms. Even though the issue of concessional cloth was in vogue prior to the Coal Award and the existing privileges and amenities automatically stood replaced with the implementation of the Coal Award in 1956, the supply of uniforms was strictly regulated in accordance with paragraph 824 of the Coal Award which is applicable to workers whose total emoluments are less than Rs. 100.00 per month only. The Unions are fully aware of it and they have not challenged the restricted supply of uniforms as per the Coal Award at any time after 1956. The contentions of the Union that the supply of uniform at concessional rates to all workmen of the Company was protected by the Wage Board as modified by the Labour Appellate Tribunal is not correct. The workmen assailed the recommendations contained in paragraph 824 of the Coal Award as per the quantum of concession etc. The Labour Appellate Tribunal held that as the subject is not appealable and as the workmen have not shown substantial question of law, the workmen's appeal on this point failed. The general observations made in paragraph 351 of Labour Appellate Tribunal apparently refer to continuation of free supply of uniforms to certain categories of work like hospital staff watch & ward and peons etc. who are eligible for free supply of uniforms from the inception and the same is being continued even after implementation of the Wage Board recommendations. The concessional supply of uniforms has definite relationship to the emoluments drawn by the workers as per para 824 of the Coal Award and also according to the Company's circular No. P, 2144 dated 3-11-1958 which was issued in supersession of all the previous instructions in the matter of supply of uniforms. In this context, the general observations contained in paragraph 10 of Chapter XVIII at page 165 of the Wage Board Report, which are recommendatory and not mandatory, are not relevant. While there is no justification for continuation of this amenity after implementation of the Wage Board's recommendations, the female mazdoors in question were issued the said uniforms at concessional rates from out of the old stock and no disputes as such exists. Therefore, no benefit for which the workmen are legally entitled is stopped or withdrawn and there is nothing illegal, unjustified or unfair done. Even though none of the workers including the female mazdoors of 'B' Power House are eligible for concessional supply of uniforms after Wage Board scales of pay were implemented, some cloth which was obtained earlier and was available in stock in the Stores, was distributed to the workers so that the stock may not get spoiled. Likewise, the female mazdoors of 'B' Power House also were issued from the same stock. This supply which was made without commitment and to clear off the existing stock cannot be claimed as a matter of right. The reference of the present dispute is not sustainable in law. The allegations that this was done to weaken the I.N.T.U.C. is without any basis.

4. The dispute that is referred to this Tribunal for adjudication is whether the respondent is justified in withdrawing the concession of supply of uniforms at 50 per cent rates to female mazdoors of 'B' Power House after implementation of the Recommendations of the Central Wage Board for Coal Mining Industry?

5. The petitioners are female mazdoors working in the 'B' Power House at Kothagudem. The respondent had been supplying two sarees and blouse pieces once a year to the petitioners at the concessional rate of 50 per cent of the cost of the cloth and this concession was stopped after the implementation of the recommendations of the Central Wage Board for Coal Mining Industry (hereinafter referred to as the Wage Board) were implemented by the respondent. The supply of uniforms was first introduced in the year 1949 by the respondent in view of the notification of the then Hyderabad Government. In view of the said notification, the respondent had fixed some conditions as regards the supply of uniforms. Ex. M.1 is the copy of that circular dated 2-6-1950 issued by the respondent. Before the All India Industrial Tribunal (Colliery disputes) which is popularly known as Mazumdar Tribunal, the union raised some demands as regards the supply of uniforms and Mazumdar Award came into force from 1956. Mazumdar Award recommended supply of uniforms at 50 per cent concessional rates for all the manual workers drawing a total emolument of less than Rs. 100 per month and this aspect of

the matter is dealt with in paragraphs 823 and 824 of the award of the All India Industrial Tribunal (Colliery Dispute) pursuant to Mazumdar Award, the respondent issued the circular the original of Ex. W1 dated 3-11-1958 (Ex. M2 is the same as Ex. W1). After the implementation of the Recommendations of the Wage Board, the respondent had stopped issuing uniforms at the concessional rate on the ground that all the workers are drawing a salary of more than Rs. 100 per month. Now from the evidence it is seen that even after the implementation of the recommendations of the Wage Board uniforms were supplied at concessional rate for some time and now the explanation offered by M. W1 (U. Shivaraj) who is Senior Inspector, Post Audit Department of the respondent at Kothagudem, is that there was remaining stock on hand at the time when the circular the original of Ex. M3 was issued and so that stock was supplied at concessional rate till they lasted instead of selling away the stock in the open market. So, under the circumstances, even though uniforms were supplied for some time even after the implementation of the recommendations of the Wage Board, the petitioners cannot now rely on that fact and contend that as of right they were getting the uniforms at concessional rate even after the implementation of the Wage Board Recommendations.

6. Now it is contended by the learned counsel for the petitioners that the supply of Uniforms has nothing to do with the wages received by the workmen and that uniforms were supplied irrespective of the fact whether a workman earned less than Rs. 100.00 or more than Rs. 100.00 a month and that the petitioners are enjoying the privilege of getting uniforms at concessional rates all these years and that even the Labour Appellate Tribunal made it clear that all existing privileges etc., including supply of uniforms should continue and that the only restriction that was imposed was that a worker should have put in one year of service and that even in the Wage Board Recommendations it was made clear in Chapter XVIII that all existing facilities and amenities which are more favourable than those recommended by the Wage Board should be protected and so the respondent is not justified in withdrawing this concession. The contention of the respondent's representative is that in Mazumdar Award it was made clear that the supply of uniforms should be only for those workmen who drew a salary of less than Rs. 100.00 a month and that after the implementation of the Wage Board Recommendations there is no worker whose salary is less than Rs. 100.00 and so the respondent is perfectly justified in withdrawing this concession. It is also contended by the respondent's representative that the Government had appointed a Committee to go into the question of supply of uniforms that this Committee has not yet submitted the recommendations and so by the future supply of uniforms on concessional rate has to be made only after the recommendations of the Committee and after the Government approves the recommendations and that even the Wage Board refrained from making any recommendations about the uniforms since the Government had appointed a Committee to go into the question of supply of uniforms. Now in view of these contentions it has to be seen whether the action of the respondent in withdrawing this concession is justified or this concession should be continued even though the workmen may be drawing a salary of more than Rs. 100.00 per month in view of the recommendations of the Wage Board.

7. A perusal of Ex. M.1 shows that as regards the supply of uniforms the respondent had fixed up certain conditions and that it is pursuant to this circular that uniforms were being supplied till the Mazumdar Award came into force. So far as this supply of uniforms is concerned it is dealt with as item 4 in paragraphs 823 and 824 of Mazumdar Award. A perusal of it shows that the Tribunal was of the opinion that some clothing, if not a regular uniforms, should be given at concessional rates and so all manual workmen whose normal total emoluments were less than Rs. 100.00 per month should be supplied with one pair of foot-wear, 2 shirts, 2 shorts at concessional rate of 50 per cent of cost once in a year. It is with reference to this recommendation in Mazumdar Award the respondent issued the circular the original of Ex. W1 dated 3-11-1958 and now the evidence is that even the female mazdoors like petitioners also were being supplied with two sarees and blouse pieces once in a year at concessional rate. W.W.1 (M. Bhoodevi) is one of the petitioners and she speaks about the supply of two sarees and blouse pieces every year at concessional rates. When she is asked whether the uniforms were being supplied pursuant to the circular the

original of Ex. W1 she says that she does not know about it and that she also does not know whether in the Coal Award it is mentioned that Mazdoors who are getting more than Rs. 100.00 per month, are not eligible for concessional rate of supply of uniforms. She also says that she does not know whether the Wage Board has stated in its recommendations that as the matter regarding concessional supply of uniforms was before a separate Committee they did not want to say anything. Now, from the evidence in this case and the Recommendations made by the All India Industrial Tribunal it is clear that the supply of uniforms was only for those workers whose wages were less than Rs. 100.00 per month. A perusal of Chapter XV at page 148 of the Recommendations of the Wage Board shows that claims had been made before the Wage Board on behalf of the workers as regards the supply of uniforms and that as a separate Committee was going into the question of free supply of uniforms the Wage Board refrained from making any recommendations on the question of uniforms. No doubt it is contended by the learned counsel for the petitioners that under Chapter XVIII, the Wage Board had observed that all existing amenities enjoyed by the workmen should be protected. But a perusal of paragraph 10 in Chapter XVIII shows that what the Board recommended was that all existing higher and better rates of wages etc., which are more favourable than those recommended by the Wage Board shall be protected. If the Wage Board really felt that the uniforms should be supplied at the concessional rates till the Committee appointed gave its final recommendations, then the Wage Board itself would have made it clear in Chapter XV while referring to the uniforms that this concession should be continued till the Committee appointed submitted its recommendations. But in this case the Wage Board specifically referred to the supply of uniforms at concessional rates and observed that it refrained from making any recommendations on the question of uniforms. So there is no question of any existing amenities being protected in this case. From the Mazumdar Award and from Ex. W. 1 it is clear that it is only those workmen whose total emoluments were less than Rs. 100.00 should be supplied with uniforms at concessional rates. Now it is clear that after the implementation of the recommendations of the Wage Board no workman is drawing total emoluments of less than Rs. 100.00 per month. So, under the circumstances, it cannot be said that the action of the respondent in withdrawing the concession of supply of uniforms at 50 per cent rates to the petitioners is not justified. All that can be said now is that the petitioners have to only await the recommendations of the Committee which has been appointed for going into the question of supply of uniforms. Until that Committee submits its recommendations, the respondent is perfectly justified in withdrawing the concession of supply of uniforms at 50 per cent rates, because this supply of uniforms at concessional rates was being made only to those workmen who were drawing the salary of less than Rs. 100.00 per month and since now there is no worker whose total emoluments are less than Rs. 100 per month. On a consideration of the whole evidence in this case I am satisfied that the respondent is justified in withdrawing the concession if supply of uniforms at 50 per cent rates.

8. No doubt it is also contended by the respondent that if the supply of uniforms at concessional rates is made it would be an additional financial burden that the respondent has to bear and that the respondent is not in a position to bear the additional financial burden. In order to show that the respondent is incurring only loss, the respondent filed Exs. M5 to M8 which are the annual reports for the years from 1967-68 to 1970-71. The respondent's representative also referred to the judgment in Writ Petition No. 4076/70 dated 20-1-1972 in support of his contention that the question of industry's capacity to pay is a relevant consideration and that if the company has no financial capacity to pay it cannot be asked to bear any additional financial burden and he also produced a copy of the judgment for my perusal. So far as the present case is concerned, if it is a case where in any new demands had been made by the petitioners involving additional financial burden then the contention of the respondent's representative will hold good. But so far as the present case is concerned the respondent had been supplying uniforms at concessional rates and the petitioner's contention is that the respondent is not justified in withdrawing this concession. If it is held that the respondent is not justified in withholding this concession, the respondent is certainly liable to supply the uniforms at concessional rates as was done pre-

viously. So, under the circumstances of this case, it cannot be said that it is a new claim put forward by the petitioners involving additional financial burden. So I do not find any force in the contention of the respondent's representative that by granting this concession the respondent will have to bear additional financial burden.

9. For the reasons already given, I hold on the dispute referred to this Tribunal for adjudication that the Management of Singareni Collieries Company Ltd., P. O. Kothagudem, is justified in withdrawing the concession of supply of uniforms at 50 per cent rates to female mazdoors of 'B' Power House after the implementation of the Recommendations of the Central Wage Board for Coal Mining Industry and so the petitioners are not entitled to any relief and that they have only to await the recommendations of the Committee appointed by the Government for going into the question of supply of uniforms at concessional rate.

Award is passed accordingly.

Dictated to the Stenographer, transcribed by him and corrected by me and given under my hand and the seal of this Tribunal, this the 5th day of October, 1972.

P. S. ANANTHI, Presiding Officer.

APPENDIX OF EVIDENCE

Witnesses examined
for Petitioner.

W.W.1: M. Bhoodevi.

Witnesses examined
for Respondent

M.W.1: U. Shivaraj.

Documents exhibited for Petitioners.

Ex. W.1: Circular dated 3-11-1958 issued by the General Manager, S.C. Co., Ltd., Kothagudem, regarding concessional supply of uniforms and footwear to the manual workers.

Documents exhibited for Respondent.

Ex. M.1: Copy of the circular dated 2-6-1950 issued by the Deputy General Manager, S.C. Co. Ltd., Mandamari regarding uniforms.

Ex. M.2: Copy of the circular dated 3-11-1958 issued by the General Manager, S.C. Co. Ltd., Kothagudem, regarding supply of uniforms and footwear to the manual workers.

Ex. M.3: Copy of the circular dated 14-9-1967 issued by the General Manager, S.C. Co. Ltd., regarding wage structure and new conditions of service under the recommendations of the Wage Board approved by the Government of India.

Ex. M.4: Copy of the extract of para 20 of supplementary statement of Singareni Collieries from Indian Mining Association written statement submitted to the All India Industrial Tribunal on 10-7-1954.

Ex. M.5: Balance sheet of Singareni Collieries Co. Ltd., for the year 1967-68.

Ex. M.6: Balance sheet of Singareni Collieries Co. Ltd., for the year 1968-69.

Ex. M.7: Balance sheet of Singareni Collieries Co. Ltd., for the year 1969-70.

Ex. M.8: Balance Sheet of Singareni Collieries Co. Ltd., for the year 1970-71.

New Delhi, the 8th December, 1972

S.O. 4158.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad, in the industrial dispute between the employers in relation to the management of Kendwadih Colliery No. 6 and 8 Pits of Messrs East Bulliari/Kendwadih Colliery Company Limited, Post office Kusunda, District Dhanbad and their workmen, which was received by the Central Government on the 1st December, 1972.

[No. 2/165/70-LR.II]

KARNAIL SINGH, Under Secy.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 2, DHANBAD

Present :

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE NO. 16 of 1971.

In the matter of an industrial dispute under S 10(1)(d) of the Industrial Disputes Act, 1947.

Parties :

Employers in relation to the management of Kendwadih Colliery No. 6 and 8 Pits of Messrs East Bulliari/Kendwadih Colliery Company Limited, Post office Kusunda, District Dhanbad.

AND

Their workmen.

Appearances :

On behalf of the employers in relation to the management of Kendwadih Colliery.—Shri S. S. Mukherjee, Advocate.

AND

Bharat Coking Coal Ltd. On behalf of the workmen.—Shri Ram Mitra, Secretary, Bihar Koyala Mazdoor Sabha.

State : Bihar.

Industry : Coal.

Dhanbad, 28th November, 1972

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the management of Kendwadih colliery No. 6 and 8 Pits of Messrs East Bulliari/Kendwadih colliery Company Limited, Post office Kusunda, District Dhanbad and their workmen, by its order No. 2/165/70-LR.II dated 6th January, 1971 referred to this Tribunal under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below :

SCHEDULE

“Whether the action of the management of Kendwadih colliery No. 6 and 8 Pits of Messrs East Bulliari/Kendwadih colliery Company Private Limited, Post office Kusunda, District Dhanbad in stopping their workmen Sarvashri Manuruddin, Drill Mazdoor,

Govind Tanti, Dresser, Hitkaran and Ramlochan Koiri, Explosive Carriers with effect from the 30th April, 1970 is justified? If not, to what relief are the workmen concerned entitled?”

2 Employers as well as the workmen filed their statement of demands. On the application of the workmen, at first the custodian and custodian general and then Bharat Coking Coal Ltd. was impleaded a party, as the colliery was taken over by the Government of India pending the Reference. Statement on behalf of Bharat Coking Coal Ltd. also was filed adopting the statement of the employers and further pleading that they were not liable for the acts of the previous employers. The workmen were represented by Shri Ram Mitra, Secretary, Bihar Koyala Mazdoor Sabha and the employers and Bharat Coking Coal Ltd. by Shri S. S. Mukherjee, Advocate. On admission by the employers Ext. W.1 was marked for the workmen. On behalf of the employers a witness was examined and Exts. M.1 to M.3 were marked. Workmen examined two witnesses and marked Exts. W.2 and W.3.

3. The crucial objection taken by the employers is that the subject matter of the reference is not an industrial dispute. It is to be noted that the matter referred for adjudication shows that the 4 affected workmen were employees at 6 & 8 Pits, Kendwadih colliery, that the colliery belongs to the employers, Messrs East Bulliari/Kendwadih Colliery Company Private Limited and that the employers stopped the 4 affected workmen at 6 & 8 Pits from working with effect from 30-4-1970. The case of the employers is that 6 & 8 Pits of Kendwadih Colliery do not belong to the employers viz. Messrs East Bulliari/Kendwadih Colliery Company Private Ltd. and that the affected workmen were never employees of Kendwadih colliery 6 & 8 Pits. The employers further stated that the affected workmen were working in No. 1/12 Incline where coal was produced by blasting in solid coal, that the said operations in the incline were stopped under directions from the Department of Mines, that the affected workmen were given option to accept notice pay and retrenchment compensation or go on work as miners and that while eight of their colleagues accepted to work as miners, the 4 affected workmen refused to exercise their option and raised an industrial dispute before the Assistant Labour Commissioner. The statement of the employers was filed on 15-3-1971 and after the workmen filed their statement on 29-3-1971. The workmen also admitted in the statement that the 4 affected workmen were employees at No. 1/12 Incline and that they were stopped from working from 30-4-1970 at the incline after the operations were discontinued on 29-4-1970. According to the workmen the employers continued to engage several juniors/new workmen in the same colliery at No. 2/12 Incline and in other places but refused to engage the affected workmen in those places. In their written statement the employers had specifically pleaded that before the Assistant Labour Commissioner the case of the workman was at first that the 4 affected workmen were employees of 6 & 8 Pits and when the employers refuted the allegation the workmen changed their case contending that the affected workmen were employees in No. 1/12 Incline. The workmen in their statement did not choose to traverse this allegation. The order of reference is accompanied by the failure report of the Assistant Labour Commissioner (C)(V), Dhanbad, dated 3-10-1970. This report shows that the dispute over the alleged wrongful denial of employment to the 4 affected workmen of 6 & 8 Pits, Kendwadih colliery was dated 15-6-1970 and it was received by the Assistant Labour Commissioner on the same day. The failure report points out that the same dispute was earlier raised by the same union and it was closed on 12-6-1970. The dispute raised on 15-6-1970, as shown by the failure report is that when the drilling operations in No. 1/12 Incline of the colliery were stopped the same work was going on in No. 2/12 Incline and 6 & 8 Pits of the colliery and that the request of the affected workmen to provide them jobs in No. 2/12 Incline or 6 & 8 Pits of the colliery was turned down by the employers. Ext. W.1 are the comments dated 3-6-1970, obviously submitted by the employers to the dispute which was closed on 12-6-1970. Ext. W.2 is a letter of the 4 affected workmen to the manager dated 1-5-1970, stating that they have been working at No. 1/12 Incline and that the employers should provide them their jobs in No. 2/12 Incline or 6 & 8 Pits. Ext. W.3 is a letter of the same date from the Secretary,

Bihar Koyala Mazdoor Sabha to the manager also to the same effect. MW.1 is the Asst. manager in No. 1/12 Incline of the colliery since 1968-69. According to him the 4 affected workmen were employees at No. 1/12 Incline and they did not accept the alternative jobs when offered on the discontinuance of drilling operations in the incline. The witness has categorically deposed that 6 & 8 Pits are two separate pits and they are under separate management, that No. 1/12 Incline has its mouth at a distance of about 2,000 feet from 6 & 8 Pits, that workings of 6 & 8 Pits and of No. 1/12 Incline are not interconnected and that the pits and incline have separate workmen. It is true that in the cross-examination the witness has admitted that 6 & 8 Pits and No. 1/12 Incline have a common manager and in 1970 he was B. Balakrishnan. Under the Mines Act there can be a common manager for more than one collieries, as such this fact by itself is not of importance. In spite of this material I could infer that the 4 affected workmen were employees of the employers at No. 1/12 Incline, though not at 6 & 8 Pits of the same employers and for the purpose of this Reference the workmen being employees at 6 & 8 Pits or at No. 1/12 Incline did not make much difference. But the contention of the employers is that 6 & 8 Pits do not belong to them at all and, as such the employers in the present Reference could not be held responsible for anything done at 6 & 8 Pits. Out of the 4 affected workmen only one, Maniruddin is examined as WW.1. He says, against the admitted case of the workmen that he was working at 6 Pits as a drillman, that he does not know No. 1/12 Incline and that owners of the mine where he was working, previously were Atwal & Co. and later K. Worrah & Co. It means that 6 Pit where he was working does not belong to the present employers, Messrs East Bulliari/Kendwadih Colliery Company. He also admits that MW.1 was the Assistant manager of the mine where he was working which means, according to MW.1, the mine was No. 1/12 Incline. Anant Sharma is the Secretary, Bihar Koyala Mazdoor Sabha and Ext.W.3 was signed by him. Anant Sharma, WW.2 states that No. 1/12 Incline was under the management of K. Worrah & Co. from 1969 and he denied that 6 & 8 Pits were under the management of Atwal & Co. In Kendwadih colliery, according to him, Atwal & Co. were contractors in 1966 and 1967. I am referred to the award passed by this Tribunal in Reference No. 231/67 dated 5-3-1969. The matter in dispute in that Reference was as regards No. 1/12 and No. 2/12 Inclines of Kendwadih colliery and the dispute ended in a compromise. To the dispute M/s East Indian Coal Co. Ltd. and M/s. G. S. Atwal & Co. Raising & Selling Agents were parties as employers and the workmen were represented by the same union, Bihar Koyala Mazdoor Sabha. From the memorandum of settlement filed in that Reference case it emerges that M/s. G. S. Atwal & Co. were Raising & Selling Agents, M/s. East Indian Coal Co. were the owners of No. 1/12 and No. 2/12 Inclines and M/s. East Bulliari/Kendwadih Colliery Company Private Ltd. were the incoming employers. It was so in 1969. It means that in 1970 Atwal & Co. were no more raising & selling agents and M/s. East Bulliari/Kendwadih Colliery Company Private Ltd. were the owners of No. 1/12 and No. 2/12 Inclines of Kendwadih colliery. But the question is whether 6 & 8 Pits were also owned by the present employers. Anant Sharma, WW.2 says that in Kendwadih colliery, G. S. Atwal & Co. were contractors in 1966 and 1967 and in 1967 contract of G. S. Atwal & Co. was terminated and it was given to K. Worrah & Co. There is no room to infer that 6 & 8 Pits of the colliery were also a part of the same colliery as No. 1/12 and No. 2/12 inclines, because Anant Sharma, WW.2 denies that the contract of G. S. Atwal & Co. related to 6 & 8 Pits. So, I cannot hold that during the material period the management of 6 & 8 Pits and No. 1/12 Incline of the colliery was one and the same. I cannot go beyond the terms of Reference and substitute a new dispute for the dispute referred for adjudication. When the employers are flatly denying that they were employers of 6 & 8 Pits Kendwadih colliery during the material period and there is no material to hold that they were, the dispute referred to cannot be adjudicated against the employers. The preliminary objection should prevail. Other points raised by parties need not be gone into. Under these circumstances I find that the Reference is not proper. The Award is made accordingly and submitted under S. 15 of the Industrial Disputes Act, 1947.

N. VENKATA RAO, Presiding Officer.

New Delhi, the 11th December, 1972

S.O. 4159.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of Shri T. T. Tayade, Deputy Chief Labour Commissioner (Central), New Delhi and Arbitrator in the industrial dispute between the employers in relation to the management of Duman Hill and Korea Collieries of National Coal Development Corporation Limited, Ranchi and their workmen, which was received by the Central Government on the 1st December, 1972.

[No. L/2213/1/71-LRII.]

KARNAIL SINGH, Under Secy.

In the matter of arbitration under Section 10A of the Industrial Disputes Act, 1947 in the dispute between the management of Duman Hill and Korea Collieries of National Coal Development Corporation Ltd., Ranchi and their workmen represented by M.P. Colliery Workers' Federation, Chirimiri and Mining Staff Association, Duman Hill and Korea Collieries, M. P.

Present :

Representing the Management :

1. Shri B. L. Wadhwa,
Director of Administration,
N.C.D.C. Ltd., Ranchi.
2. Shri R. S. Murthy,
Addl. Chief Personnel
Officer,
N.C.D.C. Ltd., Ranchi.
3. Shri P. S. Verma,
Group Personnel Officer,
N.C.D.C. Ltd.,
P.O. Balkunthpur,
District Surguja (M.P.)
4. Shri P. Sadasivan Nair,
Jabalpur,
Counsel for N.C.D.C. Ltd.

Representing the Workmen :

1. Shri Gulab Gupta,
Advocate/General Secy.,
M. P. Colliery Workers'
Federation, 2015, Wright
Town, Jabalpur (M.P.).
2. Shri Sukhlal Singh,
Secretary,
M. P. Colliery Workers'
Federation, Chirimiri (M.P.).
3. Shri A. D. Dubey,
Joint Secretary,
Mining Staff Association,
P.O. Korea Colliery,
District Surguja (M.P.).

By an agreement dated 20-7-71, the management of the above coal mines of N.C.D.C. Ltd. and the above unions agreed to refer the following dispute for my arbitration under Section 10A of the Industrial Disputes Act, 1947:—

"The following employees of Korea and Duman Hill Collieries of N.C.D.C. Ltd. were placed in the Coal Wage Board pay scale of Rs. 180—337

with a higher starting pay of Rs. 205/- from the date of implementation of the Coal Wage Board recommendations or the date of their appointment to the present post, as the case may be, whichever is later and they continued to be paid salary on that basis till 30th November 1970. The higher starting pay was disallowed which resulted in their basic pay being brought down with effect from 1st December 1970. Whether the management is justified in doing so? If not, to what relief the workmen concerned are entitled? While deciding this issue, the Wage Board recommendations as accepted by the Government of India, the circulars issued by the management of N.C.D.C. from time to time, and the agreements between the Management of Korea Colliery of N.C.D.C. Ltd. and the M.P. Colliery Workers Federation for this class of employees should be taken into consideration in law.

Names of Employees:

Korea Colliery

1. Shri Balmukhund
2. Shri Mansai
3. Shri Rupsai
4. Shri Nankaram
5. Shri Kamla Pandey
6. Shri Jagdamba Prasad
7. Shri Kutubuddin
8. Shri Seopujan Singh
9. Shri A. K. Gurla
10. Shri Moharsai
11. Shri Chandrika Prasad
12. Shri S. N. Srivastava

Duman Hill Colliery

1. Shri M. Banerjee
2. Shri Kamruddin
3. Shri G. C. Prasad
4. Shri M. Mahato
5. Shri A. Bhattacharjee
6. Shri Ramlal Teli
7. Shri Kalika Prasad
8. Shri Jagmohan .

2. The said arbitration agreement was sent for publication in the Gazette of India, Part II, Section 3, vide Government of India, Ministry of Labour and Rehabilitation, Department of Labour and Employment notification No. L/2213/1/71-LRII dated 7-8-1971. Under the agreement, I was to give my award within 60 days or within such further time as is extended by mutual agreement between the parties. Accordingly, the parties entered into mutual agreements and extended the date from time to time and finally the date for giving the award was extended to 30th November, 1972.

3. After receipt of the written statements from the management and the unions, I heard the parties on various dates at Jabalpur, Chirimiri and finally at Delhi on 13-8-72. I also visited Churcha, Banki and Surakachar Collieries of N.C.D.C. Ltd. for verifying certain facts relevant to this dispute. The management and the unions also produced certain records before me at Jabalpur on 20th and 21st October, 1972.

4. The history of the case briefly is the concerned mining staff mentioned in para. 1 above had been working as ordinary shot firers in Duman Hill and Korea Collieries of N.C.D.C. Ltd. While implementing the recommendations of the Central Wage Board for the Coal Mining Industry, the management introduced extended scale of pay of Rs. 180-5-210-7-287-10-337 instead of the scale of pay of Rs. 180-5-210-7-273 prescribed by the Central Wage Board for the Coal Mining Industry for mining sirdars Gr. II and shot firers. However, the N.C.D.C. Ltd., vide their circular letter No. PD/WB/Monthly Staff/68/Pt. II dated 18-3-1969 decided to give a higher start of Rs. 205/- to

those mining staff who were in service on 14-8-1967 and the salary of the staff concerned in this dispute was accordingly fixed with additional increments for the past service, if any. This benefit of higher start in the said extended scale was also conferred by the management on the mining staff who joined the service of the Corporation after 14-8-1967, vide their circular No. PD/WB/Monthly Staff/68/Pt. II dated 16-6-1969 and therefore the salary of the mining staff who joined the service of the Corporation after 14-8-1967, 14-8-1967 was also fixed at the higher start with additional increments for the past service, if any. Thereafter as per instructions contained in H.O. circular letter No. PD/WB/Monthly Staff/68/Pt. III dated 25-9-1970, the higher start of Rs. 205/- given to the ordinary shot firers was denied on the plea that the said benefit was only admissible to shot firers with gas testing and mining sirdar's certificates, and the salary of the concerned staff was therefore reduced from 1-12-1970. The dispute arose as to whether the management was justified in effecting the cut in the salary of the concerned mining staff in view of the instructions contained in the earlier two circulars referred to above.

5. The M.P. Colliery Workers Federation, Chirimiri as well as the Mining Staff Association, Korea Colliery (hereinafter called "Unions") have stated in their written statements that all the workmen concerned in this dispute were originally employed as shot firers in Korea and Duman Hill Collieries of N.C.D.C. and while implementing the recommendations of the Central Wage Board for the Coal Mining Industry, they were fitted in the scale of Rs 180-5-210-7-287-10-337 prescribed by the Wage Board from 15-8-1967. Thereafter in accordance with the decision taken by the Chairman and Managing Director of N.C.D.C., which was circulated by the Chief Personnel Officer, vide his circular letter No. PD/WB/Monthly Staff/68/Pt. II dated 18-3-1969, the mining subordinate staff who were in the employment of N.C.D.C. on 14-8-1967 were given a higher start of Rs. 205/- and the salary of the mining subordinate staff who came within the purview of the said circular was again fixed and they were also paid arrears of difference of wages on such refixation. Subsequently in accordance with the decision taken by the Chairman and Managing Director of N.C.D.C. which was circulated by the Chief Personnel Officer, vide his circular letter No. PD/WB/Monthly Staff/68/Pt. II dated 16-6-1969, this benefit of the extended scale of pay of Rs. 180-5-210-7-287-10-337 with a higher start of Rs. 205/- was also allowed even to the mining subordinate staff who were appointed after 14-8-1967 and the salary of the mining subordinate staff who came within the purview of this circular was also fixed in the said scale with effect from 15-8-1967 and they were also paid the arrears of difference of wages on such refixation. Thereafter, all of a sudden, the Chief Personnel Officer, N.C.D.C. with the approval of Director of Administration, N.C.D.C. issued another circular letter No. PD/WB/Monthly Staff/68/Part III dated 25-9-1970 stating therein that the benefit of higher start of Rs. 205/- in the extended scale of pay would be admissible only to those shot firers with gas testing and mining sirdar's certificates who were in the service of the Corporation on 14-8-1967 and not to ordinary shot firers. In the said circular, it was also stated that the mining staff who joined the service of the Corporation after 14-8-1967 would be given only the Wage Board scale of pay and not the extended scale of pay. Accordingly the managements of Korea and Duman Hill Collieries of N.C.D.C. refixed the salary of the concerned mining staff to the level of original fixation i.e. the salary of the staff was fixed in the extended scale of pay without the benefit of higher start of Rs. 205/- and thus reduced their salary from 1-12-1970 and also ordered for recovery of the arrears of difference of wages paid to the staff from 15-8-1967 to 30-11-1970 on the basis of the earlier two circulars referred to above i.e. dated 18-3-1969 and 16-6-1969. The unions in their statements stated that the management was not justified in reducing the pay of the concerned mining staff when some of the mining subordinate staff employed in Churcha, Banki and Surakachar Collieries of N.C.D.C. were still in receipt of the benefit of higher start under the above referred two circulars dated 18-3-1969 and 16-6-1969. In the statements, they also said that the change effected by the management was arbitrary, unilateral and illegal, since before effecting the change, the management neither discussed the matter with the unions representing the mining staff nor gave notice under Section 9A of the Industrial Disputes Act, 1947. In their statements, the unions prayed that the management be directed that the

concerned mining staff be allowed the benefit of pay fixed in accordance with the above referred two circulars dated 18-3-1969 and 16-6-1969 and also not to recover the amount paid to the staff from 15-8-1967 to 30-11-1970 in accordance with the instructions contained in these two circulars.

6. The N.C.D.C. Ltd. (hereinafter called the "Management") in their written statement have stated that as per the recommendations of the Central Wage Board for the Coal Mining Industry, the mining sirdars have been classified in two grades i.e. mining sirdar Gr. I and mining sirdar Gr. II and the shot firers have been classified separately as shot firer. The pay scales of the mining sirdars and shot firers are the same but in view of different nature of work, they have been given different nomenclature. While implementing the Wage Board's recommendations, as a gesture of goodwill, the management gave the mining sirdars Gr. II, shot firers (gassy mine) and shot firers (ordinary) who were previously in the scale of pay of Rs. 110-180, Rs. 130-200 and Rs. 105-135 respectively and who were in service on 14-8-1967, the extended scale of pay of Rs. 180-5-210-7-287-10-337 and a higher start in the said scale was also allowed to the mining sirdars Gr. II and shot firers (gassy mine) i.e. holding mining sirdar's certificate and gas testing certificate, who were previously in the C.P.C. scale of pay of Rs. 110-180 and Rs. 130-200. The ordinary shot firers (without gas testing certificate and mining sirdar's certificate who were previously in C.P.C. scale of pay of Rs. 105-135 and who were in service on 14-8-1967 were allowed only extended scale of pay of Rs. 180-337 but not the higher start. Other mining sirdars and shot firers including ordinary shot firers appointed after 14-8-1967 were allowed the prescribed Wage Board scale of pay of Rs. 180-5-210-7-273. Though they had taken all possible steps to implement the Wage Board's recommendations and the circulars issued by their Head office in this regard, Korea Colliery and Duman Hill Colliery inadvertently allowed the higher start of Rs. 205/- to the ordinary shot firers (without gas testing and mining sirdar's certificates) who were previously in C.P.C. scale of pay of Rs. 105-135 and who were in service on 14-8-1967. Since these ordinary shot firers who were previously in C.P.C. scale of pay of Rs. 105-135 and who were in service on 14-8-1967 were given the benefit of extended scale of pay of Rs. 180-5-210-7-287-10-337 as against the scale of Rs. 180-5-210-7-273, the claim of the workmen for higher start is not justified considering the practice prevalent in other coal mines. It is within the competence of the management to make adjustments of excess payment made and rectify the errors. Though under the settlement dated 17-8-1969 arrived at between the management of Korea Colliery and the M.P. Colliery Workers' Federation (INTUC), Korea Colliery, it was agreed to re-designate shot firers as mining sirdars Gr. II, there was no mention in the settlement that a mining sirdar Gr. II would be given a higher start of Rs. 205/- or from the terms of the settlement, no inference could be drawn that all the shot firers and mining sirdars Gr. II were entitled for either the higher start of pay or the extended scale. Considering the fact that the management implemented the Wage Board's recommendations and also liberalised certain provisions as in the case of subordinate mining personnel, it was not open to the unions to demand any higher start for ordinary shot firers who were in a much lower pay scale in C.P.C. Any deviation if made would create an imbalance in the wage structure prescribed by the Wage Board and would create anomalies which might give rise to further disputes causing industrial unrest.

7. In addition to whatever has been stated in the written statement of the unions, Shri Gulab Gupta, General Secretary, M.P. Colliery Workers Federation, who argued on behalf of the workmen stated that under the conciliation settlement dated 17-8-1969 arrived at between the management of Korea Colliery and their union, it was agreed that all the workmen concerned would be re-designated as mining sirdars Gr. II. Accordingly they were re-designated as mining sirdars Gr. II and hence there was no reason whatsoever for not allowing them the higher start of Rs. 205/-. He pleaded that even if interpretation given by the management to the circulars dated 18-3-1969 and 16-6-1969 is correct, these workmen because of their designation as mining sirdars Gr. II would become entitled for the higher start of Rs. 205/- and hence there was no justification for reducing their pay. He reiterated that there was no ambiguity in the two circulars referred to above

and said that they were very clear and rightly implemented by the local managements of the two collieries.

8. Shri B. L. Wadhwa, Director of Administration, who argued on behalf of the management stated that the circular of 18-3-1969 mentioned (in para. 2 towards the end) inter alia the scales of pay to be allowed to the categories of mining sirdars Gr. II shot firers and in the next paragraph, the circular dealt with the starting pay of mining sirdars as distinguished from shot firers. He added that while the scale of pay of these two categories viz. mining sirdars Gr. II and shot firer was to be the same viz. Rs. 180-337, in terms of their circular, the minimum starting pay of Rs. 205/- was to be available only to mining sirdar Gr. II which did not include shot firers without having the mining sirdar's certificate and gas testing certificate. He remarked that the circular was clear in distinguishing these two categories and therefore it was implemented correctly in the overwhelming majority of the collieries of the management. They have about 40 coal mines and only in a couple of them, the circular was not implemented correctly and starting pay of Rs. 205/- which was meant to be applicable only to the mining sirdars Gr. II and not to ordinary shot firer as indicated above was made available by mistake to the ordinary shot firers also. Further, circulars dated 16-6-1969 and 25-9-1970 provided clarifications to clear any doubt including the doubt on this particular point which might have been there anywhere although his submission was that the original circular was quite clear and there was no scope for any misunderstanding.

9. In spite of this, Shri Wadhwa said that in a couple of collieries, starting pay of Rs. 205/- was given to non-entitled category as indicated above. In terms of this, certain employees in these collieries received over-payment and the same was stopped on the mistake having been discovered, and to the extent the wrong payments were received by the incumbents concerned, the same had to be recovered. It is not a case of reduction in wage, but a case of over-payment being stopped and the arrears to the extent of over-payment being recovered from the employees. If this is not done, the implications would be:—

- (a) That the mistake made in a couple of collieries would be perpetuated.
- (b) Claims may be raised by employees in other collieries for similar wrong fixation on the basis of decision in this case.
- (c) That there are various other cases of over-payments already in other categories where also the employees would resist paying the overpaid amount back.
- (d) In future also, there can be cases of wrong fixation in a vast Corporation like N.C.D.C. where orders issued from HQs or Area Offices are to be implemented in various projects and mines. If wrong payments get sanctified here, similar claims would be raised in future cases also.

10. Shri Wadhwa continued and said that N.C.D.C. being a public sector undertaking, circulars are issued on the basis of certain orders passed on the file and if the arbitrator desires, they would show him the original file from which the circular dated 18-3-1969 originated so as to enable him to go into the circumstances of the issue of the original order and the intention behind the same. He said that the union has pointed out that the original orders dated 18-3-1969 and 16-6-1969 were issued with the approval of the Chairman-cum-Managing Director and with the concurrence of Director of Finance, while the subsequent order dated 25-9-1970 was issued by the Chief Personnel Officer only with the approval of the Director of Administration and as such, was not legal and competent as the Director of Administration would not over-rule his superior authority, viz. Chairman-cum-Managing Director. In this regard, Shri Wadhwa submitted that the Director of Administration at that time and even later had the powers of Chairman-cum-Managing Director on these matters which had been duly delegated to him and as such, he was competent to revise the orders passed by himself or the Chairman-cum-Managing Director.

11. Shri Wadhwa further stated that the union has also argued that on 17-8-1969, the management of Korea

Colliery and the M.P. Colliery Workers' Federation (INTUC), Korea Colliery had entered into a conciliation settlement under which the designation of shot firer was converted as mining sirdar Gr. II. The Union has also tried to make out a case that with this change of designation, the management was not legally correct in effecting a cut in their salary when mining sirdars Gr. II were entitled for the extended scale of Rs. 180-337 with a higher start of Rs. 205/-. Shri Wadhwa admitted the fact that there was such a settlement, but at the same time, he said that the settlement relates only to re-designation of the shot firer but it does not remove the distinction between ordinary shot firers and shot firers with mining sirdar's certificate and gas testing certificate in so far as their starting pay with a higher start in the extended scale of pay is concerned. If the settlement had to mean that ordinary shot firers and shot firers with the above-mentioned qualifications would get higher start of Rs. 205/- in the extended scale, that could and should have been mentioned in it. Since there was absolutely no mention of pay scale or the starting pay in the pay scale, the orders as contained in the earlier circulars would naturally prevail.

12. Shri Wadhwa pointed out that another point relevant to the issue is that formerly some of the N.C.D.C. mines were declared as gassy mines by the Director General Mines Safety while some of the mines were not declared as such. The two types of shot firers therefore, worked in the two types of mines i.e. shot firers without gas testing certificate and without mining sirdar's certificate worked in the non-gassy mines while those in possession of the above qualifications in the gassy mines. Subsequently all the mines of the N.C.D.C. were declared as gassy mines by the D.G.M.S. and shot firers who have to work in these gassy mines have to be in possession of gas testing certificate and mining sirdar's certificate. It is these mining sirdars who are entitled to the higher start of Rs. 205/- in the extended scale of Rs. 180-337 subject to the provision that they were in the service of the management on 14-8-1967. The distinction in the starting pay is based on the possession or otherwise of a gas testing certificate and mining sirdar's certificate and is therefore rational. In fact the distinction has a background originating from the wage fixation done by the earlier awards including Majumdar Award which is popularly known as "Coal Award" as modified by the L.A.T.

13. In reply Shri Gulab Gupta of the Madhya Pradesh Colliery Workers' Federation stated that the management's attempt appears to be to create confusion. He argued that various submissions made above by the management's representative really do not apply in this case. The management's representative has not challenged the validity of the conciliation settlement dated 17-8-1969 whereby these workers were re-designed as mining sirdars Gr. II with retrospective effect. He said that this conciliation settlement is still operative and is binding upon the parties. As long as these employees are designated as mining sirdars Gr. II, they would be eligible for a higher start of Rs. 205/- in the extended scale of Rs. 180-337 in the light of the instructions contained in the circular dated 18-3-1969 referred to above. He admitted that there was distinction between mining sirdar and shot firer when the Coal Award was implemented but the same does not exist now in practice because both the categories are required to perform the same duties. Mining sirdars Gr. II are also doing shot firing job like any other shot firer and this fact can be verified from the actual practice now prevalent in the whole of N.C.D.C. In view of this conciliation settlement, Shri Gulab Gupta said that there was no justification to differently interpret the circular and order reduction in wages already given to them.

14. Shri Gulab Gupta also argued that the management's contention that the case was really a case of over-payment was not correct. The implementation of the Wage Board's recommendations has been done by the management. The pay fixation of these employees was also done by the management without consulting the union. The workers have got the benefit of the extended scale of pay with a higher start of Rs. 205/- for nearly 3-1/2 years i.e. from 15th August, 1967 November 1970. If the management wanted to make any change in the service conditions of the employees and particularly a change which adversely affected their emoluments, the management was bound under law to give proper notice of change under Section 9A of the Industrial Disputes Act, 1947 and if no agreement was possible after serving such a notice, the matter should have been taken up by the management with the appropriate 17 G. of I.—6.

authorities under the Act for a full and proper decision of the issue. He stated that the unilateral action of the management was neither legal nor justified. He pointed out that the management's representative has agreed with the fact that the circular dated 18th March, 1969 is very clear and does not suffer from any ambiguity. In view of this clear admission on the part of the representative of the management, Shri Gulab Gupta stated that there does not appear to be any necessity of going into the question as to what was the intention behind issuance of the circular in question and make an enquiry into the mind of the person who issued the circular or the intention of those who were running the administration at that time. He argued that such exercises are done only when the wording of the circular itself is not very clear which is not the position in the present case. He, therefore, said that the arbitrator should decide the matter on the basis of the two circulars referred to above. He also made it clear that it is obligatory on the part of the arbitrator as clearly mentioned in the terms of reference that he should decide the dispute on the basis of the Wage Board's recommendations, the circulars issued by the management and the agreement between the management and the union and the law of the land.

15. As far as the powers of the Chairman-cum-Managing Director and the Director of Administration are concerned, Shri Gulab Gupta stated that nothing has been brought on record to justify the submission made by the representative of the management. In fact, a point has been made by the union in their statement dated 20th September, 1971 and when this was not found to be correct submission, the management should have filed a rejoinder or a supplementary statement giving the details. No such rejoinder appears to have been filed by the management nor they have made any submission to the contrary in their statement.

16. Shri Gulab Gupta further argued that the management's submission that the extended scale of pay with a higher start of Rs. 205/- was not intended to be given to the ordinary shot firers, does not follow from the clear language used in the circular dated 18th March, 1969. He admitted that there were two types of shot firers before the Wage Board i.e. those with gas testing certificates and those without such certificates. The management has no complaint whatsoever about giving this extended scale of pay with a higher start to the shot firers with gas testing certificates and the dispute is only about those who do not have such certificates. When the distinction between shot firers was already there and if the intention was to give the benefit of extended scale of pay with a higher start only to those shot firers in possession of gas testing certificates and not to ordinary shot firers, a specific exclusion should have been made in the circular dated 18th March, 1969. In fact the said circular has treated the shot firer and mining sirdar Gr. II on par. The new categories are the categories of mining sirdar Gr. II/shot firer without any distinction of shot firer with gas testing certificate and the one without it. Under the circumstances, Shri Gulab Gupta stated that the submissions made by the management are clearly an after-thought and do not merit any consideration. Besides, the action of the management has resulted in very heavy deductions ranging from Rs. 13.69 to Rs. 38/- per month which is against the limit prescribed by the Payment of Wages Act and should not have been resorted to without prior agreement between the parties. Under the circumstances, he argued, that the workmen are entitled to continue in the pay scale as fixed for them w.e.f. 15th August, 1967 and are also entitled to arrears from December 1970 onwards.

17. Shri Wadhwa, in reply to the union's arguments, stated that just as arrears are claimed by workmen in case of under-payments made by mistake, similarly in the case of over-payments, the excess payment is recovered, and it cannot attract the provisions of Section 9A of the Industrial Disputes Act as there is no decision to reduce the wages. He added that the circulars referred to above were issued between March, 1969 and June, 1969 although the payments according to these circulars had to be made from 15th August, 1967 i.e. the date when the wage Board's recommendations were implemented, the period between the original mistake and its discovery was not as big as 2-1/2 or 3-1/2 but for about a year which is sometimes possible in a business undertaking as large as N.C.D.C. having 40 collieries spread out in various States in the country and employing about 70,000 persons. He also stated that Payment of Wages Act deals with fines and not deductions of such over-payments or payment of under-payments and therefore there is no question of any limit being applicable in this case. He further argued that special mention excluding

ordinary shot firer from minimum payment of Rs. 205 in the scale was not necessary as a clear mention of the category which was entitled to this minimum of Rs. 205 was made, while the other category was not mentioned in the relevant sub-para. of the circular where a minimum of Rs. 205 was mentioned, it was excluded. Since the whole dispute is as to whether the 18th March, 1969 circular was correctly implemented or not and whether about 36 collieries were right in implementing it the way they did or a couple of collieries were right to do so in the manner they did, it would be useful for the arbitrator to go into the original records relating to the decision to get at the correct interpretation of the circular.

18. Shri Gulab Gupta concluded saying that nothing turns out on the fact of delegation of powers of Chairman-cum-Managing Director to the Director of Administration especially when the first circular issued by the C.P.O. with the approval of the Chairman is stated by both the parties to be clear on the subject. So even if the power was delegated to the Director of Administration for revising the orders of the Chairman-cum-Managing Director, as long as the first circular remains in force, the latter circular of 25th September, 1970 can really have no meaning.

19. As stated in the terms of reference, it is a fact that the workmen concerned in this dispute were given a higher start of Rs. 205 in the Coal Wage Board scale of pay of Rs. 180—337 from the date of implementation of the Coal Wage Board's recommendations or from the date of their appointment if they were appointed subsequent to the date of implementation of the Wage Board recommendations. It is also a fact that they continued to be paid on that basis till November, 1970 and their salary was reduced from 1st December, 1970. I have to decide the issue keeping in view the recommendations of the Coal Wage Board as accepted by the Government of India, the circulars issued by the management from time to time and the agreements between the management of Korea Colliery of N.C.D.C. Ltd. and the M.P. Colliery Workers Federation.

20. I shall first deal with the points raised by the union and the management in their written statements and also during the hearing and then deal with the terms of reference referred to me in this dispute.

21. In its written statement, the union has stated that the workmen involved in this dispute were given higher start of Rs. 205 in the Wage Board scales of pay of Rs. 180—137 in terms of the circulars issued by the management on 18th March, 1969 and 16th June, 1969 and they were also paid accordingly from 15th August, 1967 to 30th November, 1970, but subsequently they were denied the higher start and their salary was reduced from 1st December, 1970 in terms of the circular issued by the management on 25th September, 1970. Nowhere in its written statement, the management made any reference to the above mentioned circulars, though Shri Wadhwa clarified the implications of the circulars during the hearing. I have gone through the circular No. PD/WB/Monthly Staff/68/Pt. II, dated 18th March, 1969 under which higher start was allowed to ordinary shot firers. From this circular, it would be seen that the mining sirdars, shot firers (gassy mines) and shot firers who were previously in the C.P.C. scale of Rs. 110—180, Rs. 130—200 and Rs. 105—135 respectively were placed in the extended scale of Rs. 180—5—210—7—287—10—337 as against the scale of pay of Rs. 180—5—210—7—273 prescribed by the Wage Board for mining sirdars Gr. II and shot firers. In the said circular, it is also mentioned that mining sirdars Gr. II would be entitled for a higher start of Rs. 205 in the scale of pay of Rs. 180—5—210—7—287—10—337 if they were in employment of the Corporation on 14th August, 1967. Though the Wage Board has prescribed the same scale of pay i.e. Rs. 180—5—210—7—273 for the posts of mining sirdars Gr. II and shot firers and though the Wage Board did not prescribe different scales of pay for shot firers with gas testing certificate or for shot firers of gassy mines, the fact remains that there is no mention in the said circular for giving higher start of Rs. 205 in the scale of Rs. 180—337 to the shot firers. Though in terms of the said circular, they have been allowed the benefit extended scale of pay of Rs. 180—337, they have not been included for higher start presumably because of their earlier scale of pay which was only Rs. 105—135 as against the earlier scales of pay of Rs. 110—180 and Rs. 130—200 allowed to the mining sirdars and shot firers of gassy mines. The management's

contention that the mining sirdars who possessed gas testing certificate or mining sirdar's certificate or the shot firers who possessed both these certificates were entitled for the higher start of Rs. 205 and not the ordinary shot firers appears to be correct. Their specific exclusion in the said circular for a higher start does not make them eligible for a higher start. In view of the contents of this circular, the basis on which these ordinary shot firers were allowed the higher start of Rs. 205 is not understood. In the last but one para. of the said circular, it has been stated that this decision shall not apply to employees appointed after 14th August, 1967 and to employees promoted from the posts below those of mining sirdars Gr. II/shot firers. Does this mean that those who were directly appointed as mining sirdars Gr. II/shot firers and on the roll of the management on 14th August, 1967 are entitled for the higher start of Rs. 205 in the said scale? If this was the intention, specific mention of the shot firers as being entitled to get higher start of Rs. 205 should have been made in para. 3 of the said circular as it has been done in the case of senior overmen, overmen, mining sirdars Gr. I & II. In the absence of such specific mention in the circular, I accept the management's contention that the higher start was admissible only to those mining staff who were in possession of gas testing certificate and mining sirdar's certificate and not to the ordinary shot firers.

22. The representative of the union has stated that in accordance with the instructions contained in the management's circular letter No. PD/WB/Monthly Staff/68/Pt. II dated 16th June, 1969, this benefit of higher start of Rs. 205 in the extended scale of pay of Rs. 190—337 conferred upon the mining staff who joined the service of the Corporation after 14th August, 1967. I have seen the said circular in which it has been stated that all employees appointed/promoted in the mining subordinate cadre after 14th August, 1967, even though they are not covered by the mining subordinate cadre scheme will be entitled to the benefit of minimum initial pay on promotion from one grade to another. From the wording of the circular, as I understood, all employees appointed in the mining subordinate cadre after 14th August, 1967 are entitled to minimum initial pay of Rs. 180 and not to a higher start of Rs. 205 as contended by the union. In support of my coming to this conclusion, I have to point out that when ordinary shot firers without gas testing certificate and mining sirdar's certificate who were in employment of the Corporation prior to 14th August, 1967 are not eligible for the higher start of Rs. 205 in the extended scale of Rs. 180—337 in terms of the instructions contained in the management's circular dated 18th March, 1969, there is no question of shot firers without gas testing certificate and mining sirdar's certificate appointed after 14th August, 1967 being entitled to the higher start of Rs. 205.

23. The next point which needs examination is the conciliation settlement dated 17th August, 1969 under which it was agreed to change the designation of shot firers as mining sirdar Gr. II. The mining sirdars have to perform certain statutory duties laid down in the Mines Regulations like safety of persons employed in the mines. The duties assigned to the post of shot firer and mining sirdar being altogether different, the Regional Labour Commissioner (Central) was not legally correct in bringing about such a settlement, since such a settlement would be considered *ultra vires* of the Mines Regulations. Secondly, a mining sirdar can perform the duty of a shot firer, but the shot firer cannot certainly perform the duty of mining sirdar unless he possesses the sirdar's certificate issued by the Mines Department. Thirdly in the settlement, there is no mention that the designation of the shot firers be changed as mining sirdar Gr. II and they should be paid as mining sirdar Gr. II. In view of this, mere change of their designation from shot firer to that of mining sirdar Gr. II would not make them eligible for higher start of Rs. 205 on par with mining sirdar Gr. II.

24. As already explained in para. 17 above by the representative of the management, it is a case of over-payment of wages than what was due to the workers and the management had a right to adjust the wages of the staff as soon as the over-payment was detected. I, therefore, hold that while effecting a cut in wages of the concerned mining staff, it was not necessary for the management to give notice under Section 9A of the Industrial Disputes Act. Another point which has been raised by the union is that deductions ranging from Rs. 13.69 to Rs. 38 per month was effected from the wages of the concerned mining staff from December

1970 onwards and this was in excess of the limit prescribed by the Payment of Wages Act. It is true that wages of the concerned mining staff were reduced by Rs. 14 to Rs. 31 per month and such reduction in their wages would not be considered as a deduction under the Payment of Wages Act, as they were not entitled to receive the same. Hence the cut in wages of the concerned staff would not attract the provisions of the Payment of Wages Act, as contended by the union.

25. Another point which has been raised by the union is that the earlier two circulars issued on 18th March, 1969 and 16th June, 1969 by the C.P.O. were issued in accordance with the decision taken by the Chairman-cum-Managing Director of N.C.D.C. whereas the third circular dated 25th September, 1970 under which the wages of the concerned mining staff were reduced was issued by the C.P.O. with the approval of the Director (Administration), N.C.D.C. The union's stand is that Director (Administration) had no authority to revise the decision taken by the Chairman-cum-Managing Director. I have seen the note for the 108th meeting of the Board of Directors of N.C.D.C. held on 22nd and 23rd March, 1969 from which it was observed that the powers delegated to the Managing Director in the Board's meeting held on 5th September, 1962 have been sub-delegated by him to the Director (Administration) in respect of matters concerning establishments and administration. I therefore hold that the circular issued by the C.P.O. with the approval of Director (Administration) on 25th September, 1970 is valid and quite in order.

26. Another point to be decided by me is whether the concerned mining staff were entitled for a higher start of Rs. 205 under the Wage Board's scale. Since the concerned mining staff had been working only as shot firers and since the scale prescribed by the Wage Board for the post of shot firer is only Rs. 180—5—210—7—273, the question of their getting a higher start of Rs. 205 in that scale does not arise. The management on their own had decided to fix the mining sirdars Gr. II and shot firers in the scale of Rs. 180—5—210—7—287—10—337 and the higher start was given only to mining sirdars Gr. II in accordance with the said circular. When shot firers as a category were excluded for getting the higher start of Rs. 205 in the said circular, the question of their entitlement for the higher start under the recommendations of the Wage Board does not arise.

27. From the above, it would be seen that neither under the recommendations of the Wage Board nor under the circulars issued by the management on 18th March, 1969 and 16th June, 1969 nor under the settlement dated 17th August, 1969, the concerned workmen are entitled for the higher start of Rs. 205 in the scale of pay of Rs. 180—5—210—7—287—10—337 prescribed by the Wage Board. It is however a fact that based on the earlier two circulars referred to above, the management had fixed their pay with a higher start of Rs. 205 and had also granted increments and paid arrears arising on this account. After giving the benefit of higher start of Rs. 205 for nearly 3 years and 4 months, the management effected a cut in their salary varying between Rs. 14 and Rs. 31 per month *w.e.f.* 1st December, 1970. This has really caused hardship to the workers and there was great protest and resentment amongst the workers on this account. The workers are already undergoing hardship on account of this cut in their salary from 1st December, 1970 and if recovery of excess payments made to them from 15th August, 1967 to 30th November, 1970 is made, it would cause additional hardship to them. I, therefore direct that no recovery of the excess payments made to them during this period should be effected. If at all any recovery of the excess payment has been made, the amount so recovered shall be refunded to the staff concerned within two months from the date on which this award becomes enforceable.

28. I have carefully considered the point as to how best to mitigate the hardship suffered by the concerned mining staff on account of the cut effected in their wages from 1st December, 1970 following the discovery of excess payment to them. In this connection, I have also taken due note of the Wage Board recommendations as accepted by the Government of India, circulars issued by the management of N.C.D.C. from time to time and the agreements between the parties concerned as also the submissions, written and oral, made by the representatives of the management

and the union. It has to be conceded that in a vast organisation like N.C.D.C., the administration is bound to err sometimes as in the instant case and, as the management has contended, to sanctify or perpetuate an apparent error would be graver than the original mistake itself. The workers have been in receipt of over-payments for as long a period as 15th August, 1967 to 30th November, 1970 and they should feel contented that under this award, there will be no recovery from their wages of such over-payments. In the circumstances of the case, this by itself is the best relief that the workers can hope for. In the result, I hold that the management was justified in effecting a cut in wages of the concerned mining staff from 1st December, 1970 on their detecting the over-payments to them except in the case of the following three workers of Korea Colliery of the management :—

1. Shri Kutubuddin.
2. Shri Kamla Pandey.
3. Shri S. N. Srivastava.

29. Sarvashri Kutubuddin and Kamla Pandey acquired the qualification of both gas testing and mining sirdar's certificates prior to 1st December, 1970 the date on which the cut was effected in their salary. Similarly, Shri S. N. Srivastava was in possession of both gas testing and mining sirdar's certificates even prior to 15th August, 1967, the date from which the Wage Board recommendations were implemented and higher start of Rs. 250 was allowed. In the case of these three workers, the management was not justified in effecting the cut in their wages from 1st December, 1970. I therefore direct that the wage cut imposed in their cases shall be restored by treating it as personal pay from 1st December, 1970 until such time it is merged in their annual increments granted from 15th August, 1971 and onwards. Arrears arising on this account shall be paid to them within two months from the date on which this award becomes enforceable. I give my award accordingly.

T.T. TAYADE,
Deputy Chief Labour Commissioner (Central) &
Arbitrator.

New Delhi,
30th November, 1972.

New Delhi, the 4th December, 1972

S.O. 4160.—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds and Family Pension Fund Act, 1952 (19 of 1952), the Central Government hereby appoints Shri G. S. Krishnan Nair to be an Inspector for the whole of the State of Kerala for the purposes of the said Act and of any scheme framed thereunder in relation to any establishment belonging to, or under the control of the Central Government or in relation to any establishment connected with a railway company, a major port, mine or an oilfield or a controlled industry or in relation to an establishment having departments or branches in more than one State.

[No. A-12016(11)/72-PF.I]

नई दिल्ली, 4 दिसम्बर, 1972

क्रा. आ. 4160.—कर्मचारी भविष्य निधि और कटुस्व पेंशन निधि अधिनियम, 1952 (1952 का 19) की धारा 13 की उपधारा (1) द्वारा प्रवृत्त शक्तियों के प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा श्री जी. एस. कृष्णन नायर को उक्त अधिनियम और उसके अधीन विद्यमान किसी स्कीम के प्रयोजनों के लिए केन्द्रीय सरकार के या उसके नियंत्रणाधीन किसी स्थापन के सम्बन्ध में या किसी रेल कम्पनी, महापत्तन, खान या सेलक्षेत्र या नियंत्रित उद्योग से संबंधित किसी स्थान के सम्बन्ध में या किसी ऐसे स्थापन के सम्बन्ध में जिसका एक से अधिक राज्य में विभाग और शाखाएँ हों, सम्पूर्ण केरल राज्य के लिए निरीक्षक नियुक्त करती हैं।

[सं. ए. 12016(11)/72-पी एफ 1]

The 5th December, 1972

New Delhi, the 17th November, 1972

S.O. 4161.—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds and Family Pension Fund Act, 1952 (19 of 1952), the Central Government hereby appoints Sarvashri P. Govindaswamy, M. Subbaraman and L. Harikrishna, to be Inspectors for the whole of the State of Mysore for the purposes of the said Act and of any Scheme framed thereunder in relation to any establishment belonging to, or under the control of the Central Government or in relation to any establishment connected with a railway company, a major port, a mine or an oilfield or a controlled industry or in relation to an establishment having departments or branches in more than one State.

[No. A-12016/10/72-PF-I]

दिनांक, 5 दिसम्बर, 1972

का. आ. 4161.—कर्मचारी भविष्य निधि और कटुम्ब पेंशन निधि अधिनियम, 1952 (1952 का 19) की धारा 13 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्रीय सरकार एतद्वारा सर्वश्री पी. गोविंदस्वामी, एम. सुब्बारामन और एल. हरिकृष्ण को लक्ष्मी पी. गोविंदस्वामी, एम. सुब्बारामन और एल. हरिकृष्ण को लक्ष्मी अधिनियम और उसके अधीन विरोधित किसी स्कीम के प्रयोजन के लिए केंद्रीय सरकार के या उसके नियंत्रणाधीन किसी स्थापन के संबंध में या किसी रेल कंपनी, महापत्तन, खान या तेल क्षेत्र या नियंत्रित उद्योग से संबंधित किसी स्थापन के संबंध में या किसी ऐसे स्थापन के संबंध में, जिसके एक से अधिक राज्य में विभाग या शाखाएं हों संपूर्ण मैसूर राज्य के लिए निरीक्षक नियुक्त करती हैं।

[सं. ए. 12016(10)/72-पी. एफ. 1]

The 7th December, 1972

S.O. 4162.—In exercise of the powers conferred by sub-section (1) of Section 13 of the Employees' Provident Funds and Family Pension Fund Act, 1952 (19 of 1952), the Central Government hereby makes the following amendment in the notification of the Government of India, Ministry of Labour and Rehabilitation (Department of Labour and Employment) No. S.O. 493 dated the 24th January, 1972, published in Part II, Section 3, sub-section (ii) of the Gazette of India dated the 12th February, 1972, namely:—

In the said notification for the words "Union territories of Tripura and Andaman and Nicobar Islands" the words "Union Territory of Andaman and Nicobar Islands" shall be substituted.

[No. 17/15/69-PF-I(ii)]

DALJIT SINGH, Under Secy.

दिनांक, 7 दिसम्बर, 1972

का.आ. 4162.—कर्मचारी भविष्य निधि और कटुम्ब पेंशन निधि अधिनियम, 1952 (1952 का 19) की धारा 13 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्रीय सरकार, भारत के राजपत्र, भाग 2, खण्ड 3, उपखण्ड (2) तारीख 12, फरवरी, 1972 में प्रकाशित भारत सरकार के श्रम और पुनर्वासि मंत्रालय (श्रम और रोजगार विभाग) की अधिसूचना सं. का.आ. 493, तारीख 24 जनवरी, 1972 में एतद्वारा निम्नीलिखित संशोधन करती हैं, अर्थात् :—

उक्त अधिसूचना में "त्रिपुरा और अण्डमान और निकोबार द्वीप समूह के संघ राज्यक्षेत्र" शब्दों के स्थान पर "अण्डमान और निकोबार द्वीप-समूह" शब्द रखे जाएंगे।

[सं. 17(15)/69-पी. एफ. 1(2)]

वलजीत सिंह, अवर सचिव।

ORDER

S. O. 4163.—WHEREAS the industrial dispute specified in the Schedule hereto annexed is pending before Shri B.R. Rao, Presiding Officer, Industrial Tribunal, Bhubaneswar;

AND WHEREAS the services of Shri B.R. Rao have ceased to be available;

NOW, THEREFORE, in exercise of the powers conferred by section 7A and sub-section (1) of section 33B of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby constitutes an Industrial Tribunal with Shri Lakshmidhar Mallick as the Presiding Officer, with headquarters at Bhubaneswar, withdraws the proceedings in relation to the said dispute pending before Shri B.R. Rao and transfers the same to Shri Lakshmidhar Mallick, Presiding Officer, Industrial Tribunal, Bhubaneswar, for the disposal of the said proceedings with the direction that the said Tribunal shall proceed with the said proceedings from the stage at which they are transferred to it and dispose of the same according to law.

SCHEDULE

S.No	Parties to the dispute	Reference Number and date to the Industrial Tribunal.
1.	Employers in relation to the management of M/s. Jagda Mining Works, Raising Contractors at Jagda Dolomite Mines, Post Office Jhirpani, Rourkela, District Sundergarh and their Workmen.	L-29012 (22)/72-LRIV dated 23-9-1972.

[No. L-29012(22)/72-LRIV.]

नई दिल्ली, 17 नवम्बर, 1972

प्रावेश

का० आ० 4163.—यतः इससे उपाबद्ध अनुसूची में विनिर्दिष्ट औद्योगिक विवाद, श्री बी० आर० राव पीठासीन अधिकारी, औद्योगिक अधिकरण, भुवनेश्वर के समक्ष लम्बित है ;

और यतः श्री बी० आर० राव की सेवाएं उपलब्ध नहीं रही हैं ; अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7-क और धारा 33-अ की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार, एतद्वारा एक औद्योगिक अधिकरण गठित करती है, जिसके पीठासीन अधिकारी श्री लक्ष्मीधर मलिक होंगे, जिनका मुख्यालय भुवनेश्वर होगा और श्री बी० आर० राव से उक्त विवाद से सम्बन्ध कार्यवाहियों को वापस लेती है और उसे उक्त कार्यवाहियों के निपटान के लिए श्री लक्ष्मीधर मलिक, पीठासीन अधिकारी, औद्योगिक अधिकरण, भुवनेश्वर को इस निदेश के साथ अन्तर्गत करती है कि उक्त अधिकरण और आने कार्यवाहियां उसी प्रथम से करेगा जिस पर वे उसे अन्तर्गत की जाएं और विधि के अनुसार उनका निपटान करेगा।

अनुसूची

क्रम सं०	विवाद के पक्षकार	औद्योगिक अधिकरण की निर्देश संख्या और तारीख
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1. मैसर्स जगदा माहर्लाज वर्कस, जगदा डोलो- एल/29012(22) 72एल० माहर्लाज वर्कस के रोजग कर्तृकटर्स, डाकघर आर० 4 तारीख 23-9-72 झिरपानी राउरकेला जिला सुन्दरगढ़ के प्रबन्ध तन्त्र से सम्बन्धित नियोजक और उनके कर्मकार।

[संख्या एल-29012/(22)/72 एल० आर०-4]

The 21st November, 1972

ORDER

S.O. 4164.—WHEREAS the Central Government is of opinion that in Industrial dispute exists between the employers in relation to the managements of (i) Messrs. Patel Stone Quarry (ii) Messrs. New Gopal Stone Quarry and (iii) Messrs. Vikas Stone Quarry, Surat and their workmen in respect of the matters specified in the Schedule hereto annexed;

AND WHEREAS the Central Government considers it desirable to refer the said dispute for adjudication;

NOW, THEREFORE, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, Bombay, constituted under section 7A of the said Act.

SCHEDULE

"Whether the demand of the workmen of Messrs. Patel Stone Quarry, Messrs. New Gopal Stone Quarry and Messrs. Vikas Stone Quarry for bonus @ 20 per cent of the wages for the accounting years Sawant 2025, 2026 and 2027 is justified? If not, to what quantum of bonus are the workmen entitled for each of the above three years?"

[No. L-29011(10)/72-LRIV]

दिनांक 21 नवम्बर, 1972

आवृत्ति

का. आ. 4164.—यतः केन्द्रीय सरकार की राय है कि इससे उपा-बद्ध अनुसूची में विनिर्दिष्ट विषयों के बारे में (1) मॅसर्स पटेल स्टोन क्वारी (2) मॅसर्स न्यू गोपाल स्टोन क्वारी और (3) मॅसर्स विकास स्टोन क्वारी, सूरत के प्रबंधतंत्रों से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच एक औद्योगिक विवाद विद्यमान है ;

और यतः केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिये निर्दिष्ट करना वांछनीय समझती है ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 10 की उपधारा (1) के खण्ड (घ) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा उक्त विवाद को उक्त अधिनियम की धारा 7-क के अधीन गठित केन्द्रीय सरकार औद्योगिक अधिकरण, बम्बई को न्यायनिर्णयन के लिए निर्दिष्ट करती है ।

अनुसूची

"क्या मॅसर्स पटेल क्वारी मॅसर्स न्यू गोपाल क्वारी और मॅसर्स विकास स्टोन क्वारी के कर्मचारियों की, संवत् 2025 2026 और 2027 के लेखा वर्षों के लिए मजदूरी के 20 प्रतिशत बोनस की मांग न्यायोचित है यदि नहीं तो कर्मकार उपर्युक्त तीन वर्षों में प्रत्येक वर्ष बोनस की किस मात्रा के हकदार हैं ?"

[सं. एल-29011(10)/72-एल. आर. 4.]

ORDER

S.O. 4165.—WHEREAS the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Messrs. Harjibhai premjibhai and Brothers, Post Office Kosamba, District Surat, and their workmen in respect of the matters specified in the Schedule hereto annexed;

AND WHEREAS the Central Government considers it desirable to refer the said dispute for adjudication;

NOW, THEREFORE, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal with Shri I. G. Thakore as Presiding Officer with headquarters at Ahmedabad and refers the said dispute for adjudication to the said Industrial Tribunal.

SCHEDULE

"Whether the demand of the workmen employed by Messrs. Harjibhai Premjibhai and Brothers, Post Office Kosamba, District Surat, for bonus at the rate of 20 per cent of the wages earned by them for the accounting years Sawant 2025 and 2026 is justified? If not, to what quantum of bonus are the workmen entitled for each of these years?"

[No. L-29011/24/72-LRIV]

आवृत्ति

का. आ. 4165.—यतः केन्द्रीय सरकार की राय है कि इससे उपा-बद्ध अनुसूची में विनिर्दिष्ट विषयों के बारे में मॅसर्स हरजीभाई प्रेमजी भाई एण्ड ब्रदर्स, डाकघर कोसम्बा, जिला सूरत के प्रबंधतंत्र से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच एक औद्योगिक विवाद विद्यमान है ;

और यतः केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्दिष्ट करना वांछनीय समझती है ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7-क और धारा 10 की उपधारा (1) के खण्ड (घ) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा एक औद्योगिक अधिकरण गठित करती है जिसके पीठासीन अधिकारी श्री आई. जी. ठाकुर होंगे, जिनका मुख्यालय अहमदाबाद होगा और उक्त विवाद को उक्त औद्योगिक अधिकरण को न्यायनिर्णयन के लिए निर्दिष्ट करती है ।

अनुसूची

"क्या मॅसर्स हरजीभाई प्रेमजीभाई एण्ड ब्रदर्स, डाकघर कोसम्बा, जिला सूरत द्वारा नियोजित कर्मचारियों की, संवत् 2025 और 2026 लेखा वर्षों के लिए उनकी उपार्जित मजदूरी के 20 प्रतिशत की दर से बोनस की मांग न्यायोचित है ? मात्रा के हकदार हैं ?"

[संख्या एल-29011/24/72-एल. आर-4]

The 29th November, 1972

S.O. 4166.—WHEREAS by the Notification of the Government of India in the Ministry of Labour and Rehabilitation (Department of Labour and Employment) No. S.O. 2471, dated the 12th June, 1972, the Central Government, being satisfied that the public interest so required, had declared the industry for the supply of milk under the Delhi Milk Scheme to be a public utility service for the purposes of the Industrial Disputes Act, 1947 (14 of 1947), for a period of six months from the 22nd June, 1972;

AND WHEREAS the Central Government is of opinion that public interest requires the extension of the said period;

NOW, THEREFORE, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act, for a further period of six months from the 22nd December, 1972.

[F. No. S-11025/16/72-LRI]

नई दिल्ली, 29 नवम्बर, 1972

का. आ. 4166.—यतः केन्द्रीय सरकार ने, यह समाधान हो जाने पर कि लोक हित में ऐसा अपेक्षित था, भारत सरकार के श्रम, रोजगार और पुनर्वास मंत्रालय (श्रम और रोजगार विभाग) की अधिसूचना सं. का. आ. 2471 तारीख 12 जून, 1972 द्वारा दिल्ली दुग्ध स्कीम के अधीन दुग्ध के प्रदाय के लिए उद्योग को औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के लिए 22 जून, 1972 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था,

और यतः केन्द्रीय सरकार की राय है कि लोक हित में उक्त कालावधि का बढ़ाया जाना अपेक्षित है ;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ब) के उपखण्ड (6) के परन्तुक द्वारा प्रवृत्त शीकृतियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा उक्त उद्योग को उक्त अधिनियम के प्रयोजन के लिए 22 दिसम्बर, 1972 से छः मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एस-11025/16/72-एल. आर. 1]

एस. एस. सहस्रनामन, अवर सीकव।

The 2nd December, 1972

S.O. 4167.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Bombay, in the industrial dispute between the employers in relation to the management of Messrs. Pandurang Timblo Industries, Margao and their workmen, which was received by the Central Government on the 27th November, 1972.

AWARD

[No. 24/5/69-LR.I/LR.IV]

S. S. SAHASRANAMAN, Under Secy.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, BOMBAY.

[Reference No. CGIT-2/2 of 1969]

Employers in relation to the management of Messrs. Pandurang Timblo Industries, Margao

AND

Their Workmen

Present :

SHRI N. K. VANI,
Presiding Officer,

Appearances :

For the Employers —

Shri Ramesh Desai,
Labour Advisor.

For the Workmen —

Shri George Vaz,
Genl. Secy.
Goa Mining Labour
Welfare Union.

Industry : Iron Ore Mines. State : Goa, Daman and Diu.

Bombay, the 23rd October, 1972.

AWARD

By Order No. 24/5/69-LRI(i) dated 20-3-1969, the Central Government in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), referred to this Tribunal for adjudication an industrial dispute existing between the employers in relation to the management of Messrs. Pandurang Timblo Industries, Margao and their workmen in respect of the matter specified as mentioned below :—

SCHEDULE

“Whether the action of the management of Messrs. Pandurang Timblo Industries, Margao, in implementing

the final recommendations of the Central Wage Board for Iron Ore Mining Industry in respect of the workmen employed in their Iron Ore Mines with effect from the 1st January 1968, and not from the 1st January 1967, as accepted by the Government of India, is justified? If not, to what relief are the workmen entitled?”

2. The facts giving rise to this reference are as follows :—

- (i) The Wage Board for the Iron Ore Mining Industry was constituted on the 3rd May 1963 and only after a period of four years working the Wage Board made final recommendations in the year 1967. Thereafter, the Government of India accepted the recommendations of the Wage Board and requested the employers of the Iron Ore Mining Industry to implement the same. No sooner the Government decision calling upon the employers to implement the recommendations of the Wage Board was known to the workmen working in the Iron Ore Mining Industry in the region of Goa, the Goa Mining Labour Welfare Union representing workmen working in the Iron Ore Mining Industry served demands on the employers calling upon them to implement the recommendations of the Wage Board.
- (ii) As a result of the agitation in the industry in Goa, an agreement was reached between the Union and several employers of the Iron Ore Mining Industries in Goa Region including Pandurang Timblo Industries on 15-1-1968 regarding implementation of the recommendations of the Wage Board.
- (iii) The firm implemented the Wage Board recommendation with effect from 1st January 1968 instead of 1st January 1967. Thereafter the Union approached the management and also the Asstt. Labour Commissioner (C) Vasco-de-Gama, asking him to intervene and calling upon the management of Messrs. Pandurang Timblo Industries to pay to the workmen arrears of the recommendations from 1st January 1967 to 31st December, 1967. However, there was no effect of such intervention on the management and the Union thereafter served a strike notice on the management on 8-1-1969. Thereafter at the intervention of the Government, the strike was withdrawn. On 20-3-1969 the Government was pleased to refer the dispute for adjudication to this Tribunal.

3. After the receipt of this reference in this Tribunal, notices were issued to the parties for filing their statements.

4. Shri George Vaz, General Secretary of the Goa Mining Labour Welfare Union has filed the written statement on behalf of the employees at Ex. 1/W.

5. According to Shri George Vaz —

- (i) Messrs. Pandurang Timblo Industries, Margao is a Partnership firm dealing with iron ore mining industry. The firm has been working on a paid-up capital of Rs. 10 lakhs belonging to the Timblo family. A major amount of the capital is invested by Shri Pandurang Timblo to the extent of Rs. 7 lakhs out of Rs. 10 lakhs. The other partners are his closest relatives. The earnings of the firm are to the extent of Rs. 81.11 lakhs. The turnover of the firm by now have reached Rs. 1 crore per year. The financial position of the firm is very sound and is prospering year after year. Messrs. Pandurang Timblo Industries are a leading mine owners in Goa region with mines in all parts of Goa at Sonshi, Pale, Codli, Borga, Tundo Bankival and Sanguem. They export iron ore to Japan and Germany.
- (ii) The Wage Board after recording, examining and considering the financial possibilities of the Iron Ore Mining Industry in the country made its recommendations unanimously and submitted its report to the Government of India. The Government of India in the Ministry of Labour, Employment and Rehabilitation by its Resolution No. WB-2(3)/67, dated 3-6-1967 accepted the said recommendations.
- (iii) The Wage Board was constituted as a tripartite body with equal representation to the Employers in

the Iron Ore Mining Industry and representatives of workers working in the industry and independent members. All the recommendations of the Wage Board were unanimous.

- (iv) The Wage Board created 12 Wage scales both for the daily rated and monthly rated workmen and suitable scales for the clerical staff. It recommended a scheme of dearness allowance and also recommended a minimum wage and new rates of payment for the piece-rated workers working through contractors, and recommended a fitment formula besides a gratuity scheme. It also recommended that the said recommendations would come into effect as from the 1st January 1967 and should remain in force for five years until 31-12-1971.
- (v) Wage Boards have been constituted by the Government of India in various industries as part of National planning. The second Five year plan which was the second phase of national programme of our country, after securing a substantial rise in the national income as a result of the First Five Year Plan decided a national wage Policy.
- (vi) The directive principles of the Constitution of India guaranteed a living wage to industrial workers. As a measure of implementation of this directive principles, the Planning Commission gave adequate thought to the wage problem during each phase of the Plan. The second five year plan resolved that the Government should set up wage Boards to fix fair wages in major industries and thereafter in Tripartite Conferences a unanimous resolution was passed by those who attended the Conference representing industrial employers and Labour on need-based wage. The wage Boards which were constituted by the Government of India are a result of these national decision and therefore, the decisions of the wage boards cannot be flouted by any party.
- (vii) (The Wage Board for the Iron Ore Mining Industry was constituted on the 3rd May 1963 and only after a period of four years working the wage board made final recommendations, in the year 1967). The Board was very slow in making recommendations with regard to the date of operation of the final recommendations. Though the Board was constituted in 1963, it recommended the date of implementation as 1st January 1967 and granted a meagre interim relief during this period of four years on two occasions. The Wage Board has condemned the meagre wages paid by the Iron Ore Mine Owners to their workmen.
- (viii) Though the company under an agreement was supposed to make the payment of arrears with effect from 1-1-1967, it did not do so unlike several other iron ore mining employers in the region. The following are the employers who paid arrears to the workmen on the recommendations of the wage Board for the Iron Ore Mining Industry with effect from 1-1-1967.
 - (i) M/s. R. N. Bandekar.
 - (ii) M/s. S. Kantilal.
 - (iii) M/s. Salesttoo Ores Private Ltd.
 - (iv) M/s. Dempo Mining Corporation Private Ltd. (formerly M/s. Cia Mineira Dempo & Souza Ltd. and M/s. V. S. Dempo & Co. Pvt. Ltd.).
 - (v) M/s. V. M. Salgacar & Co. Pvt. Ltd.
 - (vi) Sesa Goa Pvt. Ltd.
 - (vii) Chowgule & Co. Pvt. Ltd.,
 - (viii) Shantilal Khusaldas & Co. Pvt. Ltd.,
 - (ix) The company's financial position is sound and the company is in a position to bear the burden of the recommendations and make the payment to the workmen with effect from 1-1-1967. There are no special circumstances for the company to deny to the workmen arrears or the dues with retrospective effect for the period from 1-1-1967 to 31-12-1967 when several employers have already paid to their employees the said retrospective effect from 1-1-1967.

(x) The total number of employees employed in the company are about 300 and it will not be an undue burden on the company to make payment of these arrears, to these employees.

(xi) The Wage Board recommendations be implemented with effect from 1-1-1967.

6. Shri Subhash Timblo, partner of the company has filed statement at Ex.2/E.

7. According to him :—

- (i) There were negotiations between the company and the workmen. As a result of these negotiations a settlement was arrived at on 1-9-1969. As such workmen who were employed on the aforesaid date of settlement have signed the said settlement.
- (ii) Representatives of the management and of workmen have signed an application informing the Tribunal that the parties have mutually negotiated a settlement over the dispute pending before this Tribunal and approached this Tribunal to make an award in terms of the settlement dated 1-9-1969.
- (iii) This Tribunal be pleased to pass an award in terms of settlement dated 1-9-1969 or in the alternative dispose of the reference on the ground that there is no industrial dispute between the company and its workmen.
- (iv) The financial position of the company is not sound. It is not in a position to shoulder the financial burden that would be cast on it if the wage Board recommendations are implemented in full.

8. Shri George Vaz, General Secretary of the Goa Mining Labour Welfare Union has filed rejoinder at Ex. 3/W.

9. According to him.

- (i) The contention of the company that the industrial dispute between the company and its workmen employed by them in their mining industry does not exist because of the so-called agreement signed on 1-9-1969 is far fetched and untenable for the simple reason that the dispute was raised by the Goa Mining Labour Welfare Union as a part of their strike notice dated 19-10-1968 asking for full implementation of the Central Wage Board for Iron Ore Mining Industry as approved by the Government of India with effect from 1-1-1967.
- (ii) The Government of India received the failure of conciliation report on 27-1-1969 and the workmen resorted to strike on 14-2-1969, and the said strike was withdrawn on account of Government of India Order No. 24/5/69-FR1(i) dated 20-3-1969. Majority of the workmen employed in the Mining Industry of Messrs Pandurang Timblo Industries had resorted to strike for the enforcement of their demands.
- (iii) After the Union withdrew the strike, the company allowed the workmen to resume duty but subsequently dismissed about 60 of their workmen who are covered by the present dispute. These dismissals were in contravention of Section 33A of the I. D. Act, 1947 and a number of workmen have filed complaints before this Tribunal under Section 33A of the I.D. Act, 1947 asking the Tribunal to set aside the orders of dismissal which are illegal and void. Out of the 60 workmen, dismissed as a mass victimisation, for having resorted to strike, the company has only filed 15 applications in respect of 15 employees.
- (iv) After resorting to mass victimisation of the workmen, the company recruited Blacklegs to replace the dismissed workers. The dismissals were imposed as a warning to all their workmen that further dismissals will follow if the workers should dare to raise any legitimate demand.
- (v) In such an atmosphere the company has forced their remaining workers to sign an agreement with the management over the heads of their recognised

union stating that they are prepared to forgo the demand as raised by the workmen through their Union for implementation of the Central Wage Board for Iron Ore Mining Industry's recommendations as from 1-1-1967 and are prepared to accept the differences only from 1-9-1967.

- (vi) The final recommendations of the Central Wage Board for Iron Ore Mining Industry cover all workmen employed in the Iron Ore Mining Industry of Messrs Pandurang Timblo Industries which include 150 departmental workers both monthly rated and daily rated and some 300 workmen employed through contractors as piece rated workmen. The Goa Mining Labour Welfare Union is the only registered Union functioning on behalf of workmen employed in the Mining Industry of the company and claims to represent all their workmen. The present dispute covers large majority of workmen employed by the company in its Iron Ore Industry and because a small number of workmen have foregone the original demands it cannot be deemed to have been settled. This Tribunal is therefore called upon to safeguard the rights of the workmen who have raised a legitimate demand on the basis of the final recommendations of the Wage Board with effect from 1-1-1967.
 - (vii) The so-called agreement produced by the management is *ultra vires* and illegal. It is brought out by pressure. Award be made by this Tribunal making applicable to all the workmen employed on the Iron Ore Mining Industry of Messrs Pandurang Timblo Industries including those workmen who out of terror and fear of victimisation have been made to sign the agreement dated 1st September, 1969.
 - (viii) The plea of the Mine Owner of financial difficulty cannot be considered at this stage as the wage Board has already gone into this question and it must also be taken into account that the majority of the Mine owners in Goa have agreed to implement the Wage Board recommendations from the date that it has become applicable.
10. The management has filed statement on merit at Ex. 4/E, on 26th September, 1972.
11. According to the company:—
- (i) The workmen employed at its Cacora Garage during the period are not the workmen concerned in the present dispute since the Cacora Garage is a factory registered under the Factories Act. Cacora Garage is not a mine as defined under the Mines Act and as such the present order of reference would be incapable to cover these workers under the terms of reference.
 - (ii) As the present order of reference is passed by the Central Government in relation to the industrial dispute concerning the mine, the order would not cover the workers employed at Cacora Garage.
 - (iii) The financial position of the company is not sound and prospering year after year. It implemented the recommendations of the Wage Board with effect from 1st January, 1968, in accordance with the settlement reached with the Union in 1968. In the said settlement it was also agreed that the parties would discuss the issue of arrears by mutual negotiations failing which the parties could take recourse to conciliation machinery.
 - (iv) The recommendations of the wage Board were unanimous and the Government of India has accepted those recommendations. The Wage Board has not examined and considered the financial possibility of the Iron Ore Mining Industry in the country.
 - (v) Though the recommendations of the said wage board were unanimous while considering the issue on its implementation the said recommendations cannot be considered as if they are terms of agreement. The Tribunal will have to take into account

the financial position of the company at the relevant period.

- (vi) The Wage Boards were constituted by the Government to consider the issue of fair wages to mine workers.
- (vii) The Wage Board has not taken into consideration the financial position of the cross-section of the units in the mining industry and as such any recommendations made by the said wage board, even if they are unanimous, should not be forced on the employers.
- (viii) The major 5 exporters to which reference has been made by the Union in its statement have implemented the Wage Board recommendations from 1-7-1967 and not from 1-1-1967. Those 5 exporters are the top 5 exporters and this company cannot be compared on par with those 5 exporters by any stretch of imagination.
- (ix) The company was not paying meagre wages. The Wage scale prescribed by the company prior to the implementation of the wage board recommendations compared favourably with the then prevailing wage structure in the territory and compared well with the wage structure prevailing in the mines outside this territory and it can be safely stated that the company was paying far better wages than the wages paid to workers employed in the iron ore mines in the rest of the country.
- (x) The first settlement under which the company had agreed to implement the wage Board recommendations with effect from 1-1-1968 presupposes that the said company could not implement the said recommendations with effect from 1-1-1967 and as such it was decided under the agreement that the parties would mutually discuss and settle the issue. Since majority of workers have accepted the payment of arrears under the agreement dated 1-9-1969 signed between the management and its workers, the Union cannot as a matter of right force the implementation of the recommendations from 1-1-1967, when majority of the big mine owners have implemented the recommendations with effect from 1-7-1967 or on the ground of sufficient justice.
- (xi) If the 5 big exporters in this territory have given retrospective effect for a period of 6 months, the company with this size has definitely to be gauged on a different footing in view of its turnover and general financial position which cannot be compared in any way with the other 5 exporters.
- (xii) On account of settlement dated 1-9-1969, the present reference is untenable. It was not necessary for the company to sign a settlement with Goa Mining Labour Welfare Union in view of the fact that the settlement has been accepted and signed by a large majority of the workmen employed by the company. If the workers accept the terms and conditions of the settlement as they have accepted in this case, the same settlement does not become bad in law merely because Goa Mining Labour Welfare Union or any other union for that purpose has not signed the same.
- (xiii) Majority of the workers who have participated in the strike on the basis of the Union's claim are the same persons who have signed the settlement dated 1-9-1969. Award in terms of this settlement may please be passed.
- (xiv) It is not true that signatures of the workers were obtained under pressure. As the workers were aware of the fact that the said Union has signed the settlement with 5 big exporters and agreeing on retrospective effect with effect from 1-7-1967, they naturally thought it advisable to accept the company's offer of 4 months retrospective effect. 92 per cent of the people have already signed the agreement and accepted the payment as full and final settlement towards the issue of implementation of the Wage Board recommendations.

(xv) Iron Ore Mining Wage Board is not a statutory wage board and is a recommendatory body. Unanimous decision of the said Wage Board cannot have the sanctity of an agreement under Section 12(3) of the Industrial Disputes Act as alleged or at all. While considering the issue of fair wages this Tribunal has to take into consideration the financial position of the company.

(xvi) The claim made by the workmen to the effect that the Wage Board recommendations should be implemented from 1-1-1967 may please be rejected.

12. The Union has not examined any witness in this case. Some documents have been produced. They are as follows:—

- (i) Strike Notice in Form L at Ex. 5/W.
- (ii) Minutes of conciliation proceedings at Ex. 6/W.
- (iii) Fitment Chart at Ex. 7/W.
- (iv) Copies of settlements at Ex. 15/W to 38/W.

13. The management has examined Asstt. Accountant Shri Babu Mallappa Mattikope at Ex. 8/E and produced a number of documents as mentioned below:—

- (i) Balance Sheet and profit and Loss Account duly audited by Chartered Accountants for the years 1964-65, 1965-66, 1966-67, 1967-68, 1968-69, and 1969-70 at Ex. 9/E, 10/E, 11/E, 12/E, 13/E, and 14/E.
- (ii) Statements showing miscellaneous expenses for the year ended 31-3-1965, 31-3-1966, 31-3-1967, 31-3-1968, 31-3-1969, 31-3-1970 and statement showing year-wise loan positions and net block of fixed assets.

14. From the pleading and documents on record the following points arise for decision in this case.

- (i) Whether the Union proves that the signatures of the employees on the settlement dated 1-9-1969, annexure B to the written statement Ex. 2/E were obtained by the management by pressure?
- (ii) Whether the said settlement is binding on the employees not parties to it?
- (iii) Whether the action of the management of Messrs Pandurang Timblo Industries, Margao in implementing the final recommendations of the Central Wage Board for Iron Ore Mining Industry in respect of the workmen employed in their Iron Ore Mines with effect from 1-1-1968, and not from 1-1-1967 as accepted by the Government of India is justified?
- (iv) To what relief are workmen entitled?
- (v) What order?

15. My findings are as follows:—

- (i) No.
- (ii) No.
- (iii) The action of the management of Messrs Pandurang Timblo Industries, Margao in implementing the final recommendations of the Central Wage Board for Iron Ore Mining Industry in respect of the workmen employed in their Iron Ore Mines with effect from 1-1-1968 only is not justified.
- (iv) The employees are entitled to get arrears of wages and other benefits on the basis that the final recommendations of the Central Wages Board for Iron Ore Mining Industry in respect of the workmen employed in their Iron Ore Mines should be implemented with effect from 1 July, 1967.
- (v) As per order.

17 G. of I. 7

REASONS

Point No. I

16. It is common ground that there was settlement between the management and the Union before the Asstt. Labour Commissioner (C), Vasco-de-Gama on 15th January, 1968. Copy of that settlement Ex. 22/W is as follows:—

"Memorandum of Settlement arrived at under Section 12(3) of the I.D. Act, 1947 in the office of the Asstt. Labour Commissioner (C) Vasco-de-gama.

PRESENT

Representing the management Representing the workmen

Shri M. P. Kamat,
Labour Officer,
M/s. Pandurang Timblo,
Industries, Margao-Goa.

Shri George Vaz,
General Secretary,
Goa Mining Labour Welfare
Union, Assonora, Goa.

P. T. S. Murthy,

Asstt. Labour Commissioner(C),

Vasco-de-gama.

Short Recital of the case

The Goa Mining Labour Welfare Union issued a strike notice in its letter No. ID/PTIL/26/1967 dated 18th September, 1967 in which it has threatened to launch a strike in the Iron Ore Mines on any day after 9th October, 1967 if the final recommendations of the Central Wage Board for Iron Ore Mining Industry were not implemented in full in the meantime. Conciliation proceedings were held in the dispute on 7-10-1967, 11-10-67, 18-10-67, 15-11-67, 23-11-67, 18-12-67, 9-1-68, 10-1-68 and 15-1-68. In the conciliation proceedings held on 23rd November, 1967, the management agreed in principle to implement the final recommendations for Iron Ore Mining Industry. In the conciliation proceedings held on the subsequent dates the details of implementation were discussed. Finally to-day 15th January, 1968 a settlement has been arrived at on the following terms:—

Terms of the settlement

- (1) It is agreed that the final recommendations of the Central Wage Board for Iron Ore Mining Industry as accepted by the Government of India in their resolution No. WB-2(3)/67 dated 3rd June, 1967 will be implemented with effect from 1st January, 1968.
- (2) It is further agreed that the question of payment of arrears arising out of the implementation of the final recommendations of the Central Wage Board for Iron Ore Mining Industry for the period from 1st January, 1967 to 31st December, 1967 would be negotiated between the parties for settlement within 2 months from the date of this settlement. In the event of the parties failing to arrive at a mutual settlement, either of the parties would approach the Asstt. Labour Commissioner(C), Vasco-de-Gama.
- (3) The Union hereby withdraws its strike notice dated 18th September, 1967 renewed on 20th December, 1967.
- (4) It is agreed that the parties would submit their report on implementation on or before 15th February, 1968 in respect of item (1) above, to the Asstt. Labour Commissioner(C) Vasco-de-Gama.

17. It is clear from the terms of settlement para. 1 and 2 mentioned above that the final recommendations of the central wage board for Iron Ore Mining Industry as accepted by the Government of India in their resolution No. WB-2(3)/67 dated 3rd June, 1967 were agreed to be implemented with effect from 1st January, 1968 and that the question of payment of arrears arising out of the implementation of

the final recommendations of the Central Wage Board for Iron Ore Mining Industry for the period from 1st January, 1967 to 31st December, 1967 would be negotiated between the parties for settlement within 2 months and that in the event of the parties failing to arrive at a mutual settlement, either of the parties were to approach the Asstt. Labour Commissioner(C), Vasco-de-Gama.

18. It is common ground that there was no settlement in respect of the period from 1st January, 1967 to 31st December, 1967 and that the workmen had proceeded on strike giving strike notice in February, 1969. Thereafter the dispute regarding implementation of the final recommendations of the Central Wage Board for Iron Ore Mining Industry with effect from 1st January, 1967 was referred to this Tribunal by the Central Government, simultaneously prohibiting the strike. On account of this prohibitive order, the strike was withdrawn.

19. During the pendency of this reference it appears there were negotiations between the management and some employees and that they effected settlement annexure B to the written statement Ex. 2/E.

20. Shri George Vaz, General Secretary of the Union contends that this settlement is not valid and legal and that the signatures of the employees were obtained on it by the management by pressure.

21. In the first place the employees who are signatories to the settlement annexure B Ex. 2/E have not come to the witness box to say that their signatures were obtained on the settlement by pressure. Shri George Vaz has not also adduced any evidence to show that signatures of these employees were obtained on the settlement by pressure. In the absence of evidence before me, the mere contention raised by the Union in the rejoinder Ex. 3/W that signatures of the employees were obtained on the settlement by pressure cannot be accepted. Hence my finding on this point is as above.

Point No. ii

22. Shri Ramesh Desai for the Union contends that the settlement annexure B to Ex. 2/E is binding on all the employees of the company, that it is valid and legal, that Award in terms of the settlement be passed and that in case Award cannot be passed, the reference be disposed of holding that the industrial dispute between the parties does not survive.

23. During the pendency of the reference before me the management held enquiries against number of employees and dismissed them on the ground that the misconducts alleged to have been committed by them were proved.

24. The management filed approval applications in respect of 15 employees under Section 33C(2)(b) of the I.D. Act, 1947. Some employees from Cacora Garage filed complaints under Section 33A of the I.D. Act, 1947 for reinstatement in service with continuity of service and back wages, alleging that their dismissals were *malafide* and on account of victimisation. Settlement in question is dated 1-9-1969. Admittedly on that day approval applicants and complaints under Section 33A of the I.D. Act, 1947 were pending.

25. It is alleged in para 23 of the management's statement Ex. 4/E as follows :—

"It is admitted that there were 15 applications for approval under Section 33(2)(b) on account of the present reference. This Hon'ble Court was pleased to refuse approval of the action taken by the management in all the cases out of which the management has reinstated 13 employees after the order of this Hon'ble Court. In regard to two cases, the matter is pending before the Hon'ble Judicial Commissioner, Goa, Daman and Diu and in this behalf it is further submitted that 6 out of 13 people who were reinstated have subsequently accepted the terms of the settlement dated 1st September, 1969 and on this ground alone your Honour may be pleased to approve the settlement and pass award in terms of the settlement referred to hereinabove."

26. From the above mentioned statement of the management in para. 23 of Ex. 4/E there cannot be any doubt that the workmen against whom approval applications were pending were not signatories to the settlement, when it was filed before this Tribunal on 1st September, 1969.

27. As regards the complainants who had filed complaints, they are also not parties to the settlement. It is however contended in respect of these complainants that they are not covered by the reference as they are from Cacora Garage. Apart from the fact whether these employees are covered by the reference or not, they are not parties to the settlement though they were given benefits of the wage board recommendations on the basis of settlement dated 15-1-1968 Ex. 22/W. Their names have been included in the fitment chart Ex. 7/W.

28. There cannot be therefore any doubt that all the employees working in Messrs Pandurang Timblo Industries have not signed the settlement in question. There are some employees who are not parties to it.

29. Section 18(1) of the I.D. Act, 1947 mentions that a settlement arrived at by agreement between the employer and the workmen otherwise than in the course of conciliation proceedings shall be binding on the parties to the agreement.

30. Admittedly this settlement has not been brought about during the conciliation proceedings. It has taken place during the pendency of this reference before me. Hence it is clear from the above mentioned provisions that it is binding on the parties to the agreement and not on the employees who are not signatories to it.

31. As all the employees of the opponent are not parties to the agreement in question, the Award in terms of settlement against the employees who are not parties to it cannot be passed.

32. As some employees represented by the Union are not parties to the settlement, it cannot be said that the dispute raised by the Union on behalf of the employees regarding implementation of the final recommendations of the Central Wage Board for Iron Ore Mining Industry with effect from 1-1-1967 does not survive and reference should be disposed of on this basis. Hence I am unable to accept the contention raised by Shri Desai in this respect.

Point Nos. III & IV

33. Shri Ramesh Desai representative of the opponent contends that the action of the management in implementing the final recommendations of the Central Wage Board for Iron Ore Mining Industry in respect of the workmen employed in their Iron Ore Mines with effect from 1-1-1968 is justified because the company's financial position is not sound and because it is not in a position to bear the additional burden of paying the arrears of wages on account of implementation of the final recommendations of the Central Wage Board for Iron Ore Mining Industry with effect from 1-1-1967.

34. The opponent has examined Shri Babu Mallappa Mattikope at Ex. 8/E on its behalf to prove its financial incapacity to implement the final recommendations of the Wage Board with effect from 1-1-1967. It has also produced the Balance sheet and profit and loss account.

35. According to Shri Babu M. Mattikope, Ex. 8/E, the company is continuously losing every year. During the years 1965 to 1970 the company has not made profit at any time. The company incurred losses of Rs. 7.81 lakhs, Rs. 3.34 lakhs, Rs. 6.18 lakhs, Rs. 15.52 lakhs, Rs. 1.48 lakhs, Rs. 17.10 lakhs during years 1965-1970 respectively. This loss is a gross loss because it is arrived at after charging development rebate to Profit and Loss Account. If the development rebate is deducted from the gross loss, net losses can be ascertained. The net loss incurred by the company (figures in lakhs) was Rs. 5.31, Rs. 2.86, Rs. 2.24, Rs. 0.70 (profit) Rs. 6.44 (Profits), Rs. 11.94 during the years 1965 to 1970, respectively.

36. It is clear from the above mentioned figures that during two years the company has made profits, if development rebate was not taken into consideration.

37. The company has also produced statements of miscellaneous expenses for the years ended on 31st March, 1965 to 31st March, 1970. It will be clear from this statement that the company paid presentations and donation of Rs. 9,935.88, Rs. 7,718.66, Rs. 12,374.03, Rs. 19,730.63, Rs. 24,733.40 and Rs. 14,957.43 during the years 1965 to 1970 respectively.

38. A scrutiny of the expenses made by the company shows that there is every scope for the company to reduce the expenses and to make provisions for paying some amount to its employees on account of difference in wages. It cannot be said that it will be impossible for the company to pay the arrears of wages atleast for some past period.

39. Shri George Vaz, contends that the Wage Board was constituted as a tripartite body with equal representation to the employers in the Iron Ore Mining Industry and representatives of workers working in the industry and independent members, that all the recommendations of the Wage Board were unanimous and that the same were accepted by the Government of India. It is therefore contended that these recommendations are binding on the opponent and that it cannot avoid to implement the recommendations with effect from 1-1-1967 on the ground of financial difficulties.

40. Shri Ramesh Desai contends that the Central Wage Board for Iron Ore Mining Industry is not a statutory body but only a recommendatory body. The unanimous decisions cannot have the sanctity of an agreement under Section 12(3) of the Industrial Disputes Act.

41. It is true that the Wage Board is not a statutory body and that it is only a recommendatory body. Hence the decision of this Wage Board cannot have sanctity of an agreement under Section 12(3) of the I.D. Act, 1947.

42. In the present case the opponent agreed to implement the Wage Board recommendations with effect from 1-1-1968 vide Memorandum of Settlement dated 15-1-1968 Ex. 22/W. Later on during the pendency of this reference it entered into another agreement with some employees and agreed to implement the Wage Board recommendations with effect from 1-9-1967. It can be inferred from this subsequent agreement between the opponent and some employees, that the opponent's action in implementing the final recommendations of the Wage Board for Iron Ore Mining Industry in respect of the workmen employed in its Iron Ore Mines with effect from 1-1-1968 only under the first settlement dated 15-1-1968, Ex. 22/W was not justified.

43. The Union wants that the Wage Board's final recommendations should be implemented with effect from 1-1-1967 but the management is not prepared to implement it with effect from any date prior to 1-9-1967.

44. The list Ex. 15/W mentioned below shows from what date various mine owners in Goa region implemented the Wage Board recommendations.

S. No.	Name of mine owner with address	Date from which implemented.
1.	M/s. V. N. Bandekar, Panaji	1-7-1967
2.	M/s. Agrawal Mineral Goa Pvt. Ltd., Margao	1-10-1970
3.	M/s. V. S. Salgaokar & Co. Pvt. Ltd., Vasco-de-gama.	1-7-1967
4.	M/s. V. S. Dempo & Co. Ltd., Panaji	1-7-1967
5.	M/s. G. N. Agrawal & Co. Margao	1-11-1969
6.	M/s. Cia Mineira Dempo & Sousa (Now known as M/s. Dempo Mining Corporation), Panaji	1-7-1967
7.	M/s. Pandurang Timblo (P) Ltd., Margao	1-1-1968
8.	M/s. Societate De Foremento Industrial (P) Ltd., Margao.	1-1-1968
9.	M/s. Timblo (P) Ltd.	1-1-1968
10.	M/s. Shantilal Khushaldas Bros. (P) Ltd., Margao.	1-7-1967
11.	M/s. Salitho Ore (P) Ltd.	1-7-1967
12.	M/s. Emco Goa Pvt. Ltd., Margao	1-7-1967
13.	M/s. R. N. S. Bandekar Vasco-de-Gama.	1-7-1967
14.	M/s. Mazook & Cadar Pvt. Ltd.	1-1-1968
15.	M/s. S. Kantilal & Co., Margao.	1-7-1967

16.	M/s. Orient Goa Pvt. Ltd., Panaji.	1-1-1968
17.	M/s. Damodar Mangalji & Co. Pvt. Ltd., Panaji.	1-1-1968
18.	M/s. Sesa Goa Pvt. Ltd., Panaji.	1-7-1967
19.	M/s. Chogule & Co. Pvt. Ltd., Vasco-de-Gama.	1-7-1967

45. A perusal of the above mentioned list shows that majority of the mine owners from Goa Region have implemented the final recommendations of the Central Wage Board for Iron Ore Mining Industry with effect from 1-7-1967.

46. It is contended that the companies mentioned in the list who have implemented the final recommendations of the Wage Board are very big exporters and that the company in question is a very small company and that it cannot pay the arrears with effect from 1-7-1967 also.

47. In the first place it appears to me that there is general trend in Goa region to implement the final recommendations of the Wage Board with effect from 1-7-1967. If the opponent would not implement the recommendations with effect from 1-7-1967 there would be dis-satisfaction among the employees working in the mines. This would affect the work and out put as they would have no mind to work. If the opponent would implement the Wage Board recommendations with effect from 1-7-1967 as other companies have done, there will no dis-satisfaction and there will be peace in the industry. In order to maintain the industrial peace, and to avoid dissatisfaction amongst the workers working in the same industries in Goa region it is necessary that this company should also implement the final recommendations of the Central Wage Board for Iron Ore Mining Industry with effect from 1-7-1967.

49. The company has paid Wage Board benefits to its employees with effect from 1-9-1967. It has also paid the wages of the employees for the period prior to 1-9-1967. If the opponent is to give the Wage Board benefits with effect from 1-7-1967 it will have to give difference of wages for two more months only. The amount which they will have to pay to the employees on account of implementation of the final recommendations of the Central Wage Board for Iron Ore Mining Industry with effect from 1-7-1967 would not be much. In these circumstances I am of the view that the final recommendations of the Central Wage Board for Iron Ore Mining Industry should be implemented with effect from 1-7-1967. Hence my findings on point nos. 3 and 4 are as above.

Point No. V

50. In view of the above findings, I am of the view that the employees of the company covered by the reference should be given Wage Board benefits with effect from 1-7-1967. In the end I pass the following order :—

ORDER

(i) It is hereby declared that the action of the Management of Messrs Pandurang Timblo Industries, Margao, in implementing the final recommendations of the Central Wage Board for Iron Ore Mining Industry in respect of the workmen employed in their Iron Ore Mines with effect from 1-1-1968 and not from some date prior to 1-1-1968 is not justified.

(ii) It is hereby declared that Messrs Pandurang Timblo Industries, Margao should implement the final recommendations of the Central Wage Board for Iron Ore Mining Industry in respect of the workmen employed in their Iron Ore Mines with effect from 1-7-1967 and pay to its employees all arrears of wages, other benefits etc. arising out of all this within one month from date of receipt of this Award.

(iii) Award is made accordingly.

(iv) Parties to bear their own costs.

Sd/-

N. K. VANI, Presiding Officer.
Central Govt. Industrial
Tribunal No. 2,
Bombay.

New Delhi, 4th December, 1972

S.O. 4168.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following Award of the National Industrial Tribunal, Bombay in respect of a complaint under section 33A of the said Act filed by Shri P. S. Raman of the All India Handloom Fabrics Marketing Co-operative Society Limited, Bombay, which was received by the Central Government on the 24th November, 1972 :—

[No. 6/4, 70/LRIV/I & E(1)]

S. S. SAHASRANAMAN, Under Secy.

BEFORE SHRI N. L. ABHYANKAR, NATIONAL
INDUSTRIAL TRIBUNAL, BOMBAY

Complaint (NT) No. 1 of 1971

in

Ref: (NT) No. 2 of 1970.

Mr. P. S. Raman, Bombay **Complainant**
V.

The All India Handloom Fabrics,
Marketing Society Ltd.,
Bombay No.-1.

Respondents.

In the matter of a complaint under Sec. 33A of the
Industrial Disputes Act, 1947.

Appearances :

Shri Menon, Advocate, for the complainant.
Shri Dutt, Advocate, for the respondents.

AWARD

This is a complaint under Section 33A of the Industrial Disputes Act by Shri P. S. Raman complaining against the termination of his service by the All India Handloom Fabrics Marketing Society Ltd., by an order dated 23rd March, 1971 as per Exhibit A annexed to the complaint.

2. There is a reference pending before this Tribunal being Ref: (NT) No. 2 of 1970 for adjudication of certain demands raised by the workmen against their employer the All India Handloom Fabrics Marketing Society Ltd. (hereinafter the employer shall be referred to as the Society.)

3. The complainant Shri Raman was appointed in July, 1956 as an accounts clerk with the society. It appears thereafter he earned promotions and was made an accountant in April 1963. By office memorandum dated 22nd January, 1966 the complainant who was then the accountant at the head office was up-graded as an officer, the post of accountant at the head office having been up-graded as an officer's post. In July 1969 the complaint was posted as concurrent auditor the post of concurrent auditor having been declared as an officer's post with effect from 1st July, 1969. While the complainant was working at the head office in Bombay he was transferred as concurrent auditor to Calcutta for a few days and thereafter transferred to Bangalore.

4. The complainant's case is that he had been appointed as an insurance agent by the controller of insurance on and from the year 1959 and by virtue of this appointment he was authorised to book the insurance business of general nature covering the risk to the property belonging to any person. The society knew that he was an insurance agent and entrusted him with the work of covering the society's risk as regards goods, stocks in trade, goods in transit etc. The complainant was earning commission on the business booked by him from the insurance company on the basis of certain percentage of the total value of the premium earned by the insurer. The complainant has also alleged in para 9 of his complaint that he had accumulated a substantial sum of money on account of the business secured from the society and others. It is his case that when the society came to know that the complainant had sizeable amount of such earning at his disposal the management personnel of the society started entertaining fanciful ideas as to the creation

of a welfare trust comprising only of the earnings of the complainant from his insurance business. Towards this end the managerial personnel of the society had various discussions with the complainant seeking to persuade him to part with the said money in favour of a welfare trust for the staff and other charitable purposes. The stand taken by the complainant was that the amount in question was his duly earned commission and the society or its president had no claim or hold whatever on the said amount nor could they resort to such methods as stopping special increments of the complaint or demote him in status or transfer him from place to place to compel him to do a thing which he did not want to do. The complainant has given details of the correspondence passed between the parties on this account and the demand made on the complainant for making payments from time to time. When the complainant was at Bangalore a meeting of the executive committee of the society was held on 22nd and 23rd March, 1971. The complainant was called at this meeting on 22nd March in the evening and the President of the Society asked the complainant as to what he proposed to do with the money earned by him as insurance commission. The complainant informed the President that that had nothing to do with the complainant was advised by the President that it would be in his interest to make over the amount to the charitable trust. The complainant has also alleged that he was promised promotions and other benefits if the amount of commission was entrusted to the welfare trust. The complainant did not give any reply immediately and he was again called before the meeting of the executive committee on 23rd March and asked about his decision regarding the suggestion made by the President the previous day. In regard to this matter the complainant has alleged as follows in para 26 of his complaint: "The complainant wanted them to give him legal protection against the mischief of Section 41 of the Insurance Act and further requested them to take the initiative in granting the promised increments as a first step to enable him to consider whether he should part with the said money which angered the members of the said executive committee of the opponents as also the President". Thereafter one of the directors of the society again advised the complainant to give the money to the trust when the complainant expressed his inability to accede to this request because the commission was earned by the complainant by his efforts. The complainant thereafter alleges that the society having failed in all the attempts to persuade the complainant to part with the commission amount the society resorted to colourable exercise of power under Regulation 14 of the Staff Regulations and terminated the services of the complainant. The complainant has characterised this order as mala fide and victimisation. The complainant's case is that he was not guilty of any misconduct and the society could not compel him to part with the funds which he had earned as insurance commission and that the termination of his services in these circumstances is illegal and mala fide.

5. The complainant says that the termination of services was by way of punishment and the society ought to have obtained permission of this Tribunal under Sec. 33(2)(b) of the Industrial Disputes Act inasmuch as there is a reference pending before this Tribunal and the complainant is a workman concerned in the dispute pending adjudication.

6. The society has filed a detailed written statement and has defended its action denying all the adverse allegations and innuendos.

7. According to the society it has framed staff regulations according to the resolution passed by the Board of Directors passed on 3rd January, 1959. The staff regulations were circulated among the employees and a copy was supplied to every employee including the complainant and since all the employees including the complainant are deriving benefits under the said staff regulations the regulations form an integral part of the terms and conditions of service on which the complainant was employed. A copy of the staff regulations has been annexed to the written statement. According to the society under the staff regulation No. 29(3) which governs the conditions of service of the complainant and other employees no employee of the society is allowed to engage himself in any trade or business without the permission or without the knowledge of the society.

8. The society has been insuring under general insurance its property and other assets and had been paying high rates of premium to insurers who were booking the insurance

business from the society. The society was also paying substantial brokerage to brokers on yarn business. The management of the society in consultation with some of the officers working in the society thought of utilising the said commission from insurance premium and brokerage for the benefit and welfare of the employees of the society. It was therefore decided that an employee of the society should be authorised to take the insurance agency in respect of the whole insurance business of the society at Bombay as well as of the yarn which business was to be routed through the said agent and the said agent would in his turn in good faith transfer the amount of the commission that he would be so earning on account of insurance business booked from the society for creating a fund for the benefit and welfare of the employees of the society. It was with this above object and clear understanding that the society placed confidence and trust in the complainant Shri Raman who was then working in the accounts department at the head office and permitted him to obtain a licence as an insurance agent. It was a result of this mutual understanding between the society and the complainant that he will transfer all the amounts that he earns by way of commission from the insurance business from society and brokerage, for the purpose of the welfare of the employees for founding a welfare trust fund that Raman was allowed to work as an agent for the general insurance business. Accordingly Raman obtained a licence as an insurance agent from the L.I.C. Corporation and earned substantial amounts by way of commission to the extent of Rs. 32,000 approximately. The society by their letter of 7th February 1966 called upon the complainant to furnish information about the commissions. The complainant gave the information by his reply dated 15th February, 1966. It is also alleged that the fact that the complainant was holding the commission amount in trust to be made over to the welfare fund is borne out by the fact that the complainant on different occasions paid sums; once an amount of Rs. 1,000 to Mrs. Chari and at another time Rs. 112.15 towards expenses for registration of the trust deed.

9. Subsequently the management requested the complainant to transfer all the amount earned by way of commission to the welfare fund but the complainant kept on evading the transfer of the funds. The society has denied the allegation in the complaint that the complainant was harassed or victimised or was transferred from place to place in order to coerce him to make over the amount. The society has admitted that its officers time and again advised the complainant to make over the amount with him for the benefit of the welfare fund as per understanding. The complainant was ultimately asked at Bangalore in March 1971 whether he would transfer the amount of Rs. 32,000 as per understanding and as the complainant point blank refused to part with the amount the executive committee of the society was taken aback by the attitude of the complainant and came to the conclusion that no further confidence could be reposed in such an employee who did not abide by the understanding under which he was all owed to act as insurance agent and allowed to book the society's insurance business and earn commission. As the society lost confidence in the complainant it had no option but to discharge the complainant from service which was done by letter dated 23rd March 1971. The action of the society is not punitive in character nor is it a cloak or device for punishing the complainant but the termination has been effected as the society has lost confidence in the complainant as an employee for not having implemented the understanding arrived at between the complainant and the society in respect of the amount of commission earned by him.

10. Both parties have filed copies of the correspondence and office orders and these will be referred to wherever necessary.

11. The first question to be decided is whether this complaint is tenable at the instance of Shri Raman and that will depend upon whether Shri Raman can be called a "workman" within the meaning of the Industrial Disputes Act. It is urged on behalf of the society that Shri Raman is not a workman as he was holding a responsible administrative post and was an officer. With respect to this contention it is urged on behalf of the complainant that the label by which a post is designated that is whether an officer or not will not be determinative of the question but whether the work which Raman was doing would entitle him to be considered a workman or not a workman. It is the nature of

duties required to be done or performed which by and large should determine whether Raman was holding an administrative post involving responsibility which would take his work outside the definition of a workman. That Shri Raman was an officer at the relevant time holding the post of an accountant at the head office or concurrent auditor since 1966 has not been disputed. The society has placed an record different orders posting Raman as an accountant at the head office memorandum showing that the accountant at the head office is up-graded as an officer and that even a concurrent auditor is also an officer as per Exhibit E/6. In this connection it is pointed out that when Raman asked for payment for over-time work he was informed as per Exhibit E/8 that as an officer working in the supervisory cadre he was not entitled to over-time and as such his request for payment for over-time for 2 days cannot be conceded. On receipt of this letter Shri Raman again wrote to the secretary that inasmuch as his request for granting of over-time was not sanctioned he should be granted the actual expenditure incurred by him for attending the office on the two days which were holidays and for which he had claimed payment of over-time. His request for payment of actual expenditure of conveyance, lunch and coffee was apparently allowed for those two days.

12. Shri Raman is the only witness examined in these proceedings. In para 19 of his deposition he has admitted that after the post of accountant in the head office held by him was up-graded as an officer he was entitled to draw house rent allowance and city compensatory allowance as an officer. There is a difference in the rate of house rent allowance and city compensatory allowance between officers and non-officers. He has admitted that it was correct to say that the officers of the society are in management of the affairs and administration of the society. As an accountant Shri Raman admitted that he was No. 2 in the accounts dept. at the head office. Only the chief accountant was superior to him and all other employees in the accounts dept. were subordinate to Shri Raman. He also officiated as the chief accountant on some occasions when he was paid officiating allowance.

13. In this connection the learned counsel for the complainant made a reference to two decisions of the Supreme Court namely Llyods Bank Ltd. and Panna Lal Gupta & Ors., 1961 I.L.L.J. p. 18 and Punjab National Bank Ltd. and their workman and Aur., 1961 I.L.L.J. p. 162. Both these cases relate to a question of interpretation of the Banks Award where a checking clerks required to do supervisory work had claimed such supervisory allowance and the question was whether in view of the duties done by these clerks they could be held to be doing supervisory work or work as a supervisor. In view of the duties allotted to those clerks it was held that they were not eligible for the allowances paid. I do not think these decisions are of much assistance to the complainant in this case. He was holding a responsible post as an accountant in the head office and he has admitted that as an officer he was responsible for the management of the affairs and administration of the society. As an auditor he would also be handling confidential and important information regarding the society and it is unlikely that he was doing merely work of a clerical nature which an ordinary clerk would do. From the material on the record it must be held that Raman was holding the post of an officer and as such was in charge of the management and administration of the society's affairs in respect of his department. It is not therefore possible to hold that the complainant is a workman within the meaning of the Industrial Disputes Act. In view of this finding the complaint would not be tenable as he is not a workman. It is also record that at the time of the action Raman was drawing a salary of Rs. 612/- per month.

14. Even assuming that the complainant could be treated as a workman within the meaning of the Industrial Disputes Act the next question is whether his discharge is improper or illegal or otherwise amounts to victimization or a mala fide and colourable exercise of the power of discharge given under regulation 14 of the staff regulations framed by the society.

15. It appears from the averments in paras 30, 31 and 32 of the complaint that the complainant denies that his service conditions were covered by the staff regulations.

16. But in para 24 of his deposition in cross-examination there is an unequivocal admission on the part of Raman that

his service conditions while he was in the employment of the society were governed by the staff regulations. He has accepted that the staff regulations were binding on him and that there was no occasion for him to complain against any of the staff regulations. In view of this admission—perhaps no other position could have been taken by the complainant—it is clearly evident that the terms and conditions of employment between the society and the complainant are governed by the staff regulations. Regulation 14 under which action has been taken by the society is as follows :

"The services of any permanent employee of the society other than an officer can be terminated on giving one month's notice and in the case of an officer, who is in permanent service, on giving 3 months notice or salary in lieu of the notice in both the cases. The management is competent to terminate the services of any employee without assigning any reason. A temporary employee who has put in a continuous service of 3 months and more shall however, be entitled to 14 days' notice or wages in lieu thereof before termination of service."

17. It is thus evident that under the contract of employment the society as the employer is empowered to terminate the services of any of its employees whether an officer or non-officer by requisite notice or payment of salary in lieu of notice. It is also clear that the society is not bound to assign any reason for such termination. So far as the power to terminate the services is concerned the society is fully protected by the staff regulations and in such circumstances the only question that may arise is whether this power has been exercised bona fide or male fide or has been used to punish the complainant for extraneous reasons not connected with his employment and is thus a colourable exercise of the power to victimise the complainant as alleged.

18. It is in considering this question that the averments in the complaint and the written statement regarding the circumstances in which the complainant was allowed to obtain a licence as a commercial agent and to earn commission and what was to be done with the commission amount according to the version of one or the other of the parties has to be considered.

19. In view of the admission of the complainant that he is governed by the staff regulations it is obvious that Raman could not have obtained the licence to work as a commercial agent from the L.I.C. except with the permission of his employer namely the society. Now the question is whether the circumstances in which the complainant was allowed to work as an insurance agent were those as alleged by the society or such as are described by the complainant.

20. The complainant's case is that he decided to do insurance work on his own in order to supplement his salary but he could not remember which was the first insurance he booked when insurance licence was granted. Though he claimed in his testimony that he booked business from some other persons before he booked the business from the society he could not remember the name of any other such person. His whole testimony in para 25 of his deposition is the revelation of an extraordinary story. Raman says that he has not kept any record of business done by him though in the income-tax returns he has been including the income from the insurance business from 1960 or 1961 though not from earlier years. He says he is still continued as an insurance agent and that he keeps the record of the work he does but he has not the record with him to show the business booked by him from 1961. In fact his case is that the figures of income of insurance business are received from the insurance company about that year's business but that would not show the name of the parties from when he booked the business other than the society. Even such statements were not available with him when he was examined. When asked about the insurance Business done by him after 1969 his answer was that he had not collected the particulars of the business done by him for insurance work from the company for the period subsequent to 1968-69. It was in 1969 that the society stopped giving insurance work to Raman. In fact he has admitted that he had not received any statement of business from the insurance company after 1968-69. As to what efforts he was required to put in respect of insurance business of the society he had to admit that his part was very insignificant if any, as revealed in his admission in para 25 of his deposition. As regards brokerage from yarn he could give

very little information. He has denied the case of the society that the society considered in case the booking of the general business and purchase of yarn was routed through the employee, the commission earned could be utilised for building a substantial welfare fund for the benefit of the employees. He denied that the manager asked him to become an insurance agent of the society so that the society's insurance business could be booked through him and the commission could be utilised for building a welfare fund. In para 28 he has stated as follows: "I do not deny that I was permitted to do the insurance business and give insurance work of the society. I understand that the substantial part of the commission that I will earn from the insurance business would be contributed towards the welfare fund for the benefit of the employees."

21. Now the society has placed on record a letter dated 7th Feb. 1966 Exhibit E/11. This letter is required to be reproduced in original as it is significant :

"All India Handloom Fabrics Marketing Co-operative Society Ltd.

Head Office : Janmabhoomi Chambers, Gr. Flr., Fort Street, Bombay-1.

No. AIS/GS/AD/335

Dated February 7, 1966.

You are aware that you have been appointed as an Agent for the insurance business of the society with the understanding that the premium so received will be handed over by you to the Staff Welfare Fund. Since the Staff Welfare Fund has now been constituted, you are requested to let us know the following details :

1. Date from which you were appointed as Agent.
2. What are the items of business booked through you and the amount of commission received by you till date of writing this letter.
3. (a) Whether all the amounts of commission due to you has been drawn by you from the Insurance Company.
(b) If not, what is the amount of commission pending payment to you.
4. What is the amount of income-tax that you have paid on commission received.
5. What is the net amount with you in this account.
6. (a) Whether the amount has been invested.
(b) If so, the mode of investment.
7. What is the income that you have derived from the investment.

Please send these particulars before 15th of this month.

Sd. K. L. SINGH, for Secretary.

Shri P. S. Raman,

Accountant, Head Office, Bombay.

Shri B. Vasudevaiah, Handloom House, Madras.

Shri V. Netarajan, Asstt. Accountant,
Handloom House, Bombay.

Copy to : 1. Depot Manager, Handloom House, Madras, with a request to please get the details from Shri B. Vasudevaiah and forward the same to this office immediately. Further, you are requested to let us know whether there was any other Agent besides the name given above and if so, please obtain the account from him and submit to Head Office immediately on receipt of this letter.

2. Depot Manager, Handloom House, Bombay, with a request to please get the details from Shri V. Netarajan and forward the same to this office immediately. Further you are requested to let us know whether there was any other Agent besides the name given above and if so, please obtain the account from him and submit to Head Office immediately on receipt of this letter.

3. Chief Accountant, Head Office, Bombay.
4. Assistant Marketing Officer, Head Office, Bombay.

Sd. K. L. SINGH,
For Secretary".

On receipt of this letter the complainant sent an immediate reply as per Exhibit E/12 which is as follows:

"Bombay, 15-2-1966

"The Secretary,

All India Society, Bombay.

Ref: Your letter No. AIS/GS/AD/335, dated 7-2-66.

Dear Sir,

With reference to your letter cited above, I furnish below the following details.

1. 30th July, 1959
2. Rs. 15,924.80 (commission on insurance business)
Rs. 1,611.98 (brokerage on one transaction of yarn)
- Total Rs. 17,536.78
3. (a) Drawn up to Dec. 65.
(b) Pending Jan. & Feb. 1966 (statements not yet received).
4. Rs. 1383.36 (including Rs. 205/- G.D.S.).
5. Rs. 17,346.75.
6. (a) Kept in Savings Bank Account with Bank of India.
(b) Bombay.
7. Rs. 1192.34.

Yours faithfully,
Sd. P. S. RAMAN"

22. A careful perusal of this correspondence will show that the society had so far back as in 1966 alleged that Raman was appointed as an agent for the insurance business of the society on the clear understanding that the premium so received will be landed over by him for the staff welfare fund. In his reply to this letter Shri Raman has said nothing either that was not the understanding or those were not the circumstances under which he was appointed as an insurance agent.

23. When this was pointed out to Shri Raman in cross-examination and he was asked why he did not protect as regards the understanding referred to in Exhibit E/11, his explanation was that he did not protest or say anything in reply to what is stated in the first part of the letter dated 7-2-1966 because he did not want to have a collision with the manager and because Section 41 of the Insurance Act prohibited such an understanding. Then he was asked to say why no reference was made to the provisions of the statute namely the Insurance Act and his reply was that he did not want to lose the business of the society and that is why he did not refer to the provisions of Section 41 of the Insurance Act. He denied that it was correct to say that the society was giving the business of insurance to Raman on the basis of the understanding referred to in the letter Exhibit E/11. He also admitted that he had specifically asked the secretary of the society that the understanding should not be referred to in writing in correspondence by which he meant that no reference should be made to the agreement regarding making available the commission amount for the welfare fund.

24. I am not at all satisfied that Raman has told the truth about the circumstances in which he was allowed to obtain licence as an insurance agent. It is evident that but for the understanding and the agreement referred to by the society there was no occasion for Raman to be permitted to obtain a licence as an insurance agent and there was still less reason why the large amount of insurance business in respect of their goods should be routed through Raman but for the understanding. Raman has not cared to abide by this understanding and wants to avoid his responsibility to carry it out by denying that there was any such understanding. If there was no understanding there is no reason why Raman would have parted with a substantial amount of Rs. 1,000 for assisting

Mrs. Chari the widow of an employee or have paid the registration fee for registration of the trust deed.

25. It was faintly argued that there was no evidence of any such welfare fund or trust having been formulated at all. It does not appear that Raman either disputed that there was a welfare fund or that there was a trust. Though the society has not placed on record the trust deed of the welfare fund there is enough material on the record to indicate that there was in fact such a welfare trust functioning. The payment made to Mrs. Chari and for the registration charges are evidenced by documents filed by Raman with the complaint itself. These documents are the letter dated 30th March 1967 sent by Raman to Shri Menon, copy of the receipt dated 26th November 1968 filed by Raman, letter dated 7th April 1967 sent by Menon to the complainant Raman, the letter from Goravankol dated 4th March, 1970 to Raman, letter from Goravankol dated P. Krishniah of the same date and Krishniah's letter to Raman of 9th March 1970 and the letter of Shrinivasan dated April 1, 1970 to Raman which are annexed to the written statement of the society as Exhibits C, D, E, F, G, H & I. In none of these letters Raman protected or disputed that the amount of commission which he had earned was as a result of the understanding or agreement and was to be placed at the disposal of the welfare fund. The conduct of Raman, his silence, his failure to protest and the tenor of the correspondence and the documents on record all go to justify a reasonable inference that Raman had been permitted to obtain a licence for booking insurance business on the clear understanding and agreement that he would make available the amount of the commission for founding a welfare fund for which a trust was in contemplation. It is too late for Raman now to say either that there was no such understanding or agreement or that he had been permitted to obtain a licence for doing insurance work to enable him to earn additional income. In fact it would appear from the replies given by Raman that except for the commission on business booked in respect of the society he does not appear to have earned commission on any other business and he was unable to give any details or the names of any other customers. Similar appears to be the case with respect to the commission earned for the supply of yarn. Raman was not a merchant and the only part he played was as a figure head that is the agent through whom the yarn supplies were routed. Commission on this account was also to be made available for the welfare fund which was to his knowledge. Raman having earned a substantial amount by way of commission to the tune of Rs. 32,000 was expected to abide by the understanding and agreement. This he failed to do and did not hesitate to turn round and claim that the amount was his own and nobody else could have a claim to it. It appears that his excuse at one time was that there was a legal difficulty in handing over the amount created by Sec. 41 of the Insurance Act. In support of this contention a reference was made to AIR 1968 Calcutta page 146. In my opinion the facts of that case can clearly be distinguished and it would be of no assistance to the complainant in support of his contention. A careful perusal of Sec. 41 of the Insurance Act will show that the prohibition is against sharing of commission with the customer whose business makes it possible for the agent to earn commission. It is not correct to say in the instant case that Raman as the insurance agent was asked to pay any portion of his commission to the society. What the society said was that he was permitted and in fact encouraged to obtain a licence as an insurance agent so that the insurance business could be booked through him which was of a substantial order and the commission admissible for such business could be received by Raman and made over by him to a trust or the welfare fund. I do not think anything in Sec. 41 of the Insurance Act prohibits the recipient of commission that is the insurance agent in making such use of the commission amount as he likes except that it cannot be paid back to the customer. No such contingency was possible in the instant case and Sec. 41 seems to have been a pretext to cover up his going back on the understanding or agreement in respect of the use of which the commission amount was to be put.

26. The question therefore is whether under these circumstances the society could be said to be justified in discharging the complainant from service. Could it be said that this was a colourable exercise of power or the contention of the society that they lost confidence in Raman in view of his conduct and attitude merits acceptance. It is true that Raman had not committed a misconduct as defined in the staff regulations. There was no question of charge shooting him or making an enquiry against him in respect of any such misconduct but it

is equally true that Raman had displayed an attitude and had done something which to put it simply "is not done". One does not expect of ones associates, assistants or officers to repudiate an honourable understanding. But for the agreement to make available the amount of commission for founding a welfare fund for the staff it does not seem likely that Raman would have become an insurance agent and the large insurance business of the society would have been routed through him. Raman it does not appear had himself asked for permission to start the insurance business as an insurance agent, that is not his case. But Raman was selected for permission to obtain insurance licence as an agent because he was holding a sufficiently responsible post, and because he was a party to an understanding that the amount of commission that would be earned practically only from the business of the society would be made available for the welfare fund. Having found that quite a large amount was accumulated by way of commission on account of the business given by the society it appears that Raman could not resist the temptation of going back on his understanding and repudiating it for obvious reasons namely the temptation to keep the amount for himself. Under these circumstances the society cannot be blamed or taken to task for having lost confidence in such an officer. Loss of confidence may be occasioned by several circumstances not always necessarily connected with the work of the employee. If loss of confidence under the circumstances is reasonable reaction on the part of the employer, in my opinion it would be difficult to style or to describe the action taken under the circumstances as *mala fide* or a colourable exercise of the power of parting with the employee. The society has chosen this course because it felt honestly and reasonably in view of the conduct and attitude of Raman it was not possible to retain him in service or trust him any further. In my opinion the action is *bona fide* and justified in the circumstances. On merits therefore it must be held that assuming Raman can be held to be a workman under the Industrial Disputes Act that his discharge was in *bona fide* exercise of the power of the employer for having lost confidence in Raman. The result is that there is no substance in the complaint and the complaint is dismissed. The complainant shall pay cost of Rs. 200/- to the respondents.

Bombay, 30 October, 1972.

Sd/- N. L. ABHYANKAR,
National Industrial Tribunal.

New Delhi, the 5th-December, 1972

S.O. 4169.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the management of boat-owners and contractors operating in the Port of Cochin and their workmen, which was received by the Central Government on the 24th November, 1972.

[No. 29/38/68-LR.III/P&D.]

V. SANKARALINGAM, Under Secy.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL, BOMBAY.

Reference No. CGIT-22 of 1968

Parties :

Managements of boat-owners and contractors operating in the port of Cochin specified in Schedule I hereto.

AND

their workmen

Present :

Shri A. T. Zambre, Presiding Officer.

APPEARANCES:

For the employers:—Shri P. K. Sukumaran, Advocate, for employers Nos. 1, 3, 4, 5, 10, 12, 14, 16, 19, 23, 28, 34, 37, 41, 42, 47, 48, 50, 55, 58, 67, 71, 86, 91, 92, 99, 101, 102, 109, 110, 112,

115, 118, 123, 124, and 126.

For the workmen:—Shri T.C.N. Menon, Advocate, with Shri T. M. Aboo, President and Shri P. Ravindran, General Secretary of the Cochin Port Cargo Labour Union.

Shri M. V. Joesph, Advocate, with Shri P. J. Job, General Secretary, Cochin Port Thozhilali Union.

Shri P. F. Thomas, Advocate, for Cochin Thuramugha Thozhilali Union.

STATE: Kerala. INDUSTRY: Major Ports and Docks.

Bombay, dated 30th October, 1972

AWARD

The Government of India, Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) have by their order No. 29/38/68-LR-III dated 3rd October 1968 referred to this Tribunal for adjudication an industrial dispute existing between the managements of boat-owners specified in schedule I in respect of the matters specified in schedule II.

SCHEDULE

- (1) Shri M. V. Krishnan, 20/359, Chullickal, Cochin-5.
- (2) Shri H. A. Bdulehimankutty, Contractor, Cochin-2.
- (3) Mrs. Clara Antony, W/o P. G. Antony, 8/733, Manthra Road, Cochin 2.
- (4) Shri T. K. Pareekutty, Boat Owner, Cochin 1.
- (5) M/s. Raju Brothers, Agent—C.V. Raghavan, Boat Contractor, Chambadiparambil House, Balgatty, Ernakulam.
- (6) Mrs. C. A. Kunjamma, C/o C. V. Raghavan, Boat Contractor, Chambadiparambil House, Balgatty, Ernakulam.
- (7) Shri E. A. Kochu Moidu, Boat Owner, Cochin 1.
- (8) Shri T. K. Cheria Paigg., Boat Owner, Calvetty, Cochin 1.
- (9) Shri Z. E. Sait, Boat Contractor, Cochin 2.
- (10) Mrs. K. K. Thilothama, C/o K. K. Sundran, Fashion House, Cochin 6.
- (11) M/s. C. Govindan Kutty Menon & Co., Jew Town, Cochin 2.
- (12) Mrs. K. M. Zainaba, C/o C. M. A. Adulrehiman, 6/4880, Ernakulam 7.
- (13) Shri Sathar Aycob Sait, Boat Owner, Cochin 2.
- (14) Shri K. Kunju Moideen, C/o E. A. Kochu Moidu, Cochin 1.
- (15) M/s. Nayar & Co. Cochin 2.
- (16) Shri C. V. Raghavan, Chumbadiparambil House, Balghitta, Ernakulam.
- (17) Mrs. Zainaba Beebi, C/o T. K. Pareekutty, Cochin 1.
- (18) Shri P. M. Kunjumon, 180/A, Eraveli, Cochin 1.
- (19) Shri P. M. Thankappan, C/o Poppat Dayabhai & Co. Cochin 2.
- (20) Shri K. A. Pappu, Boat Owner, Kathamana House, Bolgatty, Ernakulam.
- (21) Sry. Zainaba D/o Aboobacker; Agent—O. A. Aboobacker, Kanjiramuttom.
- (22) Mrs. Kowamma, C/o T. K. Pareekutty, Cochin 1.
- (23) Adima Mamza, Vii/83, Thurughy. Cochin 1.

- (24) Mrs. Zainaba Beebi C/o T. K. Pareekutty, Cochin 1.
- (25) Mercantile Marine Services, Cochin 3.
- (26) Thampy & Company, Cochin 3.
- (27) Mrs. Mariamma Lukos, D/o P. Lucos, National Shipping & Trading Agency, Cochin 2.
- (28) V. E. Sivanathan, XI/43 (3) Jew Town, Cochin 2.
- (29) P. H. Ummer, Boat Owner, Kochangadi, Cochin 2.
- (30) Mrs. Nafessa, D/o P. A. Hydrose, Jew Town, Cochin 2.
- (31) Mrs. James Williams, S/o Joseph Cheeran House, Nellikunnu, Kochangadi, Cochin 2.
- (32) K. A. Mamoo, Boat Owner, Calvethy, Cochin 1.
- (33) Mrs. K. M. Arifa, C/o T. S. Ali, Cochin 1.
- (34) E. K. Zuhair, C/o E. A. Kochu Moidu, Cochin 1.
- (35) K. J. Joseph, Kaniampuram House, Bolghatty, Ernakulam.
- (36) P. T. Varghese & Co., Forwarding Agents, Cochin 2.
- (37) P. B. Aboo, 8/119, Eraveli, Cochin 1.
- (38) M. A. Mohamed Hajee, 9/245, Kunnumpuram, Cochin 1.
- (39) Mrs. Mekar Vembi (Mrs. P. A. Ebrahimkutty), 15/382, Koovapadam, Cochin 2.
- (40) Ahammed Bros., Cochin 2.
- (41) Mrs. P. K. Sarah, W/o T. P. Kader, Cochin 2.
- (42) P. P. Beerasa, 5/128, Kombarmuku, Cochin 2.
- (43) M. Feroz, C/o M. M. Abdulkader, Chittoor Road, Ernakulam.
- (44) P. K. Hamza, 8/338 A, Eraveli Colony, Cochin 2.
- (45) T. M. Khalid, Contractor, Calvethy Road, Cochin 1.
- (46) T. A. Abdulrehimankutty, C/o T. S. Ali, Calvethy, Cochin 1.
- (47) T. K. Pareekutty and Co., Cochin 2.
- (48) Sabair, S/o E. A. Kochunny, Cochin 1.
- (49) P. M. Hamza Hajee, Cochin 1.
- (50) Mrs. Asya, W/o T. B. Moideen Syrang, Kochangadi, Cochin 2.
- (51) A. Feezal Mang, Alungal House, Cochin 1.
- (52) V. A. Syed Mohmad, 17/337, Cochin 5.
- (53) A. Eanu Kunjeevi, 1/419, Mangalath Parambil House Cochin 2.
- (54) Moideen Kader, Kanavara House, Eloor, Alwaye.
- (55) T. K. Abdoo, C/o T. K. Cheria Paree, Cochin 1.
- (56) M. A. Mohamed, VIII/276, Konikaparam, Cochin 1.
- (57) K. J. Thomas, Kolayaparambil House, Bolgetty, Ernakulam.
- (58) T. P. Kader, Kozhangadi, Cochin 2.
- (59) Ismail Ayood Sait, Boat Owner, Cochin 2.
- (60) V. M. A. Abdul Rehiman, 18/324, Cochin 6.
- (61) M. M. Mohamed, Kanavara House, Eloor, Alwaye.
- (62) P. K. Mohamed, Calvethy, Cochin 2.
- (63) Mrs. Kadija Bai, C/o Z. E. Sait, Cochin 2.
- (64) P. A. Tajudeen, Alinjal House, Cochin 1.
- (65) Mrs. Fathima Ebrahimkutty, 8/132, Eraveli, Cochin 1.
- (66) P. H. Ummer Kozhangadi, Cochin 2.
- (67) Prompt Transporting Company, Cochin 2.
- (68) Keshavalal Mooljee, 12/144, T. D. Estate Road, Cochin 2.
- (69) Mrs. Khulusu Beevi Ummer, V/221, Cochin 2.
- (70) Mrs. M. Meenakshi Amma, 1/165, Cochin 1.
- (71) A. B. Kunju Marakar, 6/269, Calvethy, Cochin 1.
- (72) V. K. Govindan Nair, Forwarding Contractor, Cochin 2.
- (73) Ahmed Bros., Cochin 2.
- (74) M/s. O. K. Neelakandan, Ernakulam North.
- (75) T. A. Kunjali, 9/144, T. D. East Road, Cochin 2.
- (76) A. M. Sophia, C/o A. K. Mohamedkutty, Boat Owner, Cochin 1.
- (77) A. N. Hmmer C/o A. K. Mohamedkutty, Boat Owner Cochin 1.
- (78) T. J. Hussain, 1/419, Manjaletthaparamb, Cochin 2.
- (79) T. S. Ali, Calvethy, Cochin 1.
- (80) Mrs. Pathutty, C/o E. A. Kochu Moidu, Cochin 1.
- (81) A. E. Ebrahimkutty, Alungal House, Cochin 1.
- (82) T. A. Kunjali, Darusalam Road, Cochin 1.
- (83) Mrs. Kadija, C/o K. E. Ebrahim, VI/206, Calvethy, Cochin 1.
- (84) A. H. Abdul Aziz, 261/VI, Calvethy, Cochin 1.
- (85) A. Sherafudeen, Alungal House, Cochin 1.
- (86) E. K. Baheer, C/o E. A. Kochu Moidu, Cochin 1.
- (87) E. K. Abdukoya, C/o E. A. Kochu Moidu, Cochin 1.
- (88) Mohamed Ali, C/o Ahamu, Parambisseri, Cranganore, Cochin 6.
- (89) K. T. Lonan, Koramkonikara House, Palluruthy, Cochin 6.
- (90) P. M. Kunhimon 188/A/8, Eraveli, Cochin 1.
- (91) P. G. Amtony, 8/733, Manthra Road, Cochin 2.
- (92) Asiha Beebi, C/o C. A. Ebrahim, C/o T. K. Pareekutty & Co. Cochin 2.
- (93) Mrs. Fathima Beevi, W/o K. K. Humza, Cochin 1.
- (94) V. S. Ebrahim, 4/459, Cochin 2.
- (95) Nawaz Sachariyu Sait, C/o Z. E. Sait, Cochin 20.
- (96) T. M. Khalid, Calvethy Road, Cochin 2.
- (97) Sry. Khulusu Beevi, C/o K. K. Ummer, 5/221, Cochin 2.
- (98) George Lukose, G. L. Transports, 12/175, Jew Town, Cochin 2.
- (99) Mrs. Hafa Beevi, W/o T. K. Pareedutty, Cochin 1.
- (100) Khalid S/o Kunju Mohamed, Palliparmb, Kochangadi, Cochin 2.
- (101) T. P. Kader, Jew Town, Cochin 2.
- (102) M. B. Ummer, Boat Owner, Jew Town, Cochin 2.
- (103) P. M. K. Mohammed, 6/131, Cochin 1.
- (104) Pappan Vasu, Boat Owner, C. B. 32, Pottayil House, Manjur Village, Vaikom.
- (105) Beeran Aboobacker, Owner C. B. 322-VIII/70, Thurughy, Cochin 1.
- (106) Mrs. K. M. Jubryath, W/o P. S. Mustaffa, 15/43, Pannayappally, Cochin 2.
- (107) M. A. Mohamed Koya, 20/327, Chullickal, Cochin 5.
- (108) P. Jainy, C/o M/s. Ziyad & Co., Jew Town, Cochin 2.
- (109) K. A. Ummer, V/2, New Road, Cochin 2.
- (110) Mrs. Nafessa C/o T. K. Pareekutty, Cochin 1.
- (111) K. U. Kareem, C/o K. K. Ummer, Cochin 2.
- (112) Mrs. M. Meenakshi Amma, C/o N. Appukuttan, 1/165, Eraveli, Cochin 1.
- (113) C. A. Mohamed, S/o C. A. Abdulla, 1/545, Cheriakada, Cochin 2.
- (114) Kaniampuram Bros., Ernakulam.
- (115) Mrs. Teresamma Antony, W/o T. J. Antony, C/o T. K. Parrekutty, Cochin 1.
- (116) Mrs. K. K. Ratra Umma, D/o K. K. Kader, Rameswaran, Kizhakkemuri, Cochin 2.
- (117) P. K. Kassim, Kassim Transport, Cochin 2.
- (118) K. S. Gopalan, Merchant, Cochin 2.
- (119) Mrs. Ratra Konkanasseri, C/o T. A. Kunjali, 13/142, Cochin 2.

- (120) Khadija Agents, Mattancherry, Cochin 2.
- (121) T. A. Hamza, C/o Yahoo Mooppan, Cochin 2.
- (122) T. A. Kunjali, 111/186, Monthakaparamb, Cochin 2.
- (123) Mrs. Veeramati, C/o H. V. Asher, Merchant, Alleppey.
- (124) K. K. Sundaran, Fashion House, Palluruthy, Cochin 6.
- (125) M. M. Usman, Darasalam Road, Mattakaparamb, Cochin 2.

SCHEDULE II

"Whether the Lighter-crew/Boatmen employed by 125 boat-owners operating in the port of Cochin specified in Schedule 1 are entitled to payment of bonus under the Payment of Bonus Act, 1965 (21 of 1965) for the accounting year commencing on any day in the years 1965, 1966 and 1967?"

If so, to what relief are the workmen entitled?"

2. The circumstances giving rise to this reference may be stated in brief as follows:—

The 125 employers who are the boat-owners or boat-constructors operating in the port area are engaged in the business of discharge and supply of cargo and the workmen involved are the employees working on their boats and vessels. The nature of the work and the duties of these workers were controlled and supervised by the owners and their conditions of service are fixed and settled by direct negotiations.

3. In the year 1968 the employees represented by the Cochin Port Cargo Labour Union had raised a dispute and made demands to the employer in respect of their conditions of service including bonus for the year 1964 and onwards. Negotiations had started between the parties but they failed and hence the workmen went on strike from 22nd September, 1968 and on the failure of conciliation proceedings Government referred this dispute to this Tribunal for adjudication and also issued a notice under sub-section (3) of section 10 of the Industrial Disputes Act prohibiting the continuance of the strike in connection with the dispute. However even after the reference of the dispute to this Tribunal the parties to the dispute were continuing mutual negotiations and a majority of the employers and their workers reached an agreement immediately after the reference on 7th October, 1968.

4. Originally the Cochin Port Cargo Labour Union was the only union which was a party to the reference and Government had sent the notice of this reference only to that union. Subsequently after notices of the reference were issued by this Tribunal two other unions viz., The Cochin Port Thozhilali Union and the Cochin Thuramugha Thozhilali Union made applications to this Tribunal that they were representing some of the employees and they had made representations to Government and they should be made parties. Subsequently this Tribunal received a memorandum from the Government that notices of this reference were issued to the Cochin Thuramugha Thozhilali Union and Cochin Port Thozhilali Union (INTUC) and the Tribunal issued notices to them also. Though the reference order schedule 1 gives a list of 125 managements Government has issued notice of this reference only to one employer viz., Shri T. K. Pareekutty & Co., Cochin 1. It appears that there is a boat owners association and Shri T. K. Pareekutty is the President of the Association and according to the reference order represents all the managements.

5. After the receipt of the notice Shri Pareekutty the President made an application to this Tribunal that about 80 boat-owners were the members of the association and these 80 owners have settled their dispute with their workmen represented by the Cochin Port Cargo Labour Union. The President had along with the application produced a copy of the settlement signed by the parties. By this settlement the boatowners have agreed to pay bonus at the rate of 5% of the wage share for three years commencing from 1st October, 1968. Regarding the other demands they had also agreed to maintain the register of workmen strictly as directed by the Central Government Industrial Tribunal, Bombay vide para 12 of the award in industrial Dispute No. 32 of 1963 and the association had requested that as the matter had been settled there was no dispute and the reference

should be disposed of. The Cochin Port Cargo Labour Union has also filed a statement in which they have stated that after the lighter crew had struck work the boatowners association started negotiations with the union and they had reached a settlement and the dispute has been settled as per their agreement dated 7th October, 1968 and there was no industrial dispute existing between them. They have further contended that the Cochin Thuramugha Thozhilali Union had no members among the lighter crew. They had also not raised any dispute and they were not the proper parties.

6. The Cochin Thuramugha Thozhilali Union and the Cochin Port Thozhilali Union have filed their statements and raised almost similar contentions. Each union has alleged that it represents substantial number of workmen in the business and for a complete adjudication of the dispute they were necessary parties and they should be heard. They have further contended that during the relevant years the employers have made enormous profits and the employees are entitled to get the maximum bonus under the Act i.e. 20%. Regarding the settlement they have alleged that the signatory to the settlement on behalf of the employers is Shri Pareekutty President of the Boat-owners Association who is not a party and further the settlement has not settled the issue referred to their Tribunal.

7. After the statements of claim and the replies the reference was fixed for hearing on many occasions but every time the parties requested time for negotiations and the hearing was adjourned. Ultimately when it was finally fixed for hearing at Ernakulam on 20th October, 1972 the Cochin Thuramugha Thozhilali Union although they were duly served with the notice did not remain present. The employers were represented by the Vice-President of the Boatowners Association Shri V. J. Antony. He remained present along with Counsel Shri Sukumuran. The President of the Cochin Port Cargo Labour Union Shri Aboo and the General Secretary of the Cochin Port Thozhilali Union (INTUC) Shri Job also remained present. The employers have contended that the matter has been already settled and there is no dispute. Shri Aboo and Shri Job have also supported the management and have submitted that the only issue referred was about bonus for the previous years. The matter has been settled and they had no grievance. The parties have not led any evidence and under the circumstances it shall have to be held that there is no dispute. The Cochin Thuramugha Thozhilali Union which had raised certain contentions has remained absent. No worker has also remained present and it is clear that they are not interested. I therefore pass a no dispute award in this reference.

No order as to costs.

A. T. ZAMBRE, Presiding Officer,
Central Government Institute Tribunal,
Bombay.

New Delhi, the 5th December, 1972

S.O. 4170.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby extends the period specified for the purpose of inviting objections or suggestions on the draft of the Cochin Dock Workers (Regulation of Employment) Amendment Scheme, 1972 published with the notification of the Government of India in the Ministry of Labour and Rehabilitation (Department of Labour and Employment) No. S.O. 790 dated the 31st January, 1972 from the 21st March, 1972, to a period ending with the expiry of two months from the date of publication of this notification in the official Gazette.

2. Any objections or suggestions which may be received from any person with respect to the said draft before the expiry of the period so specified will be considered by the Central Government.

[No.54/11/70-P&D]

V. SANKARALINGAM, Under Secy.

नई दिल्ली, 5 दिसम्बर, 1972

New Delhi, the 6th December, 1972

का.आ. 4170.—हाक कर्मकार (नियोजन का विनियमन) अधिनियम, 1948 (1948 का 9) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्रीय सरकार, भारत सरकार के श्रम और पुनर्वासि मंत्रालय (श्रम और रोजगार विभाग) की अधिसूचना सं. का. आ. 790 तारीख 31 जनवरी, 1972 के साथ प्रकाशित कोचीन हाक कर्मकार (नियोजन का विनियमन) संशोधन स्कीम, 1972 के प्रारूप पर आक्षेप और सुझाव मांगने के प्रयोजन के लिए विनिर्दिष्ट अवधि को 21 मार्च, 1972 से एतद्वारा इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से दो मास की अवधि के अवसान के साथ समाप्त होने वाली अवधि तक बढ़ाती है।

2 उक्त प्रारूप के बारे में किसी व्यक्ति से इस प्रकार विनिर्दिष्ट अवधि से पूर्व प्राप्त होने वाले आक्षेपों या सुझावों पर केंद्रीय सरकार द्वारा विचार किया जाएगा।

[सं. 54/11/70-पी एंड डी]

वि. शंकरालिंगम, अवर सीचिव।

S.O. 4171.—The following proposals made by the Central Government in exercise of the powers conferred by clause (a) of sub-section (1) of section 3 read with clause (iii) of sub-section (1) of section 4 of the Minimum Wages Act, 1948 (11 of 1948), for fixing the minimum rates of wages as specified in column 2 of the Schedule, annexed hereto, payable to the categories of employees employed in the following employments in the State of Jammu and Kashmir:

- (i) construction or maintenance of roads or in building operations;
- (ii) stone breaking and stone crushing;
- (iii) maintenance of buildings; and
- (iv) construction and maintenance of runway;

specified in the corresponding entries in column 1 of the said Schedule, are hereby published, as required by clause (b) of sub-section (1) of section 5 of the said Act for information of all persons likely to be affected thereby and notice is hereby given that the said proposals shall be taken into consideration on or after the expiry of three months from the date of publication of this notification in the Official Gazette.

Any objection or suggestion which may be received from any person with respect to the said proposals before the period specified above will be considered by the Central Government.

SCHEDULE

Category of work	All inclusive minimum rates of wages per day	
	Area C	Area D
1		2
UNSKILLED :	Rs. P.	Rs. P.
(1) Bajri Spreader (2) Beldar (Adult Male/Man; Adult Female/Woman; Adolescent/Boys above 12 years; Girls; Child) (3) Beater Woman (4) Bellowman (5) Chain Man (6) Boat Man (7) Bucket Man (8) Carrier (stone) (9) Carrier (Water) (10) Cart Man (11) Caretaker (Bridge) (12) Cleaner (Crane Track; Cinder for Ash pit) (13) Chowkidar (14) Concrete (Hand Mixer) (15) Daffadar (16) Driver (Bullock; Camel; Donkey; Mule) (17) Flag Man (18) Flagman (Ballast Train) (19) Gate Man (20) Gangman (21) Gang Man (Permanent Way) (22) Handle Man (23) Jumper Man (24) Kamin (Female work) (25) Khalasi (26) Khalasi (Man Male; Woman/Female; Boys/Girls; I/II; Bridge Electrical; Marine; Mopalah; Shore; Store; Steam Road Roller; Survey) (27) Labourer (Garden) (28) Lamp Man (29) Mali (30) Mazdoor (31) Mazdoor Adult Male/Man; Adult Female/Woman (32) Mazdoor (Adolescent/Boys above 12 years age; Girls; Child Lorry Trained) (33) Petroleum (34) Peon (35) Searcher (36) Signal Man (37) Strikers (38) Striker (Moplah Gang) (39) Sweeper (40) Tatti Boy (41) Tile Turner (42) Trolley Man (43) Valve Controller (44) Valveman (45) Watchman (46) Waterman (47) White Washer (48) Wooder Man (49) Wooder Woman (50) Borrymen (51) Coal Man (52) Condenses Attendants (53) Grass Cutter (54) Muckers Jamadars (55) Slingers (56) Shunter (57) Any other categories by whatever name called which are of an unskilled nature.	3.30	3.00
SEMISKILLED/UNSKILLED SUPERVISORY:		
(1) Belchawala (2) Bhisti (3) Bhisti (with Mushak) (4) Boat man (Head) (5) Breaker (6) Breaker (Rock; Rock Stone; Stone Metal; Stone) (7) Cane Weaver (8) Chain Man (Head) (9) Charpoy Stringer (10) Checker (11) Chowkidar (Head) (12) Cracker (13) Dafri (14) Dolyman (15) Driller (16) Driller (Holes; Rock) (17) Driver (Skin) (18) Excavator (19) Ferrorman (20) Fireman (21) Fireman (Brick kiln; Steam Road Roller) (22) Gate Keeper (23) Garami (Thatcher) (24) Glass Man (25) Greaser (26) Greaser-cum-Fireman (27) Grinder (28) Hammerman (29) Helper (Artisan) (30) Helper (Sawyer) (31) Jamadar (32) Keyman (33) Khalasi (Head Survey; Rivetters-Moplah Gang; Supervisor) (34) Labourer (Rock-cutting) (35) Lascar (36) Mali (Head) (37) Mate (38) Mate (Blacksmith; Road; Carpenter; Engine Driver and/or Feeder; Fitter; Gang; Khalasi; Mazdoor; Mason; Permanent Way; Pump; Driver; Turner) (39) Mazdoor (Heavy-weight; Charge-Man; Mistry; Head) (40) Muccadam (41) Night Guard (42) Oil Man (43) Quarry Man (44) Quarry Operator (45) Run-		

1

2

ner (Post Dak) (46) Store Man (47) Stocker (48) Stocker & Boilerman (49) Thatcher (50) Thoomba Man (Spade Worker) (51) Tindals (52) Trolleyman (Head Motor) (53) Fitter (Asst. Semi-Skilled) (54) Jamadar (Semi-skilled) (55) Mate (Store) (56) Pump Attendant (57) Bearer (58) Brakesman (59) Crowbar Man (60) Cook (61) Dandee (62) Farash (63) Hacksaw Man (64) Helper (Loco|Crane|Truck) (65) Kasab (66) Khalasi (Structural) (67) Laboratory Boy (68) Manjee (Boatman) (69) Masalchi (70) P.M. Mates (71) Pointsman (72) Seacummy (73) Topaz (74) Topkar (Big Stone Breaker) (75) Trolley Jamadar (76) Winchman (77) Any other Categories by whatever name called which are of a Semi-skilled nature.

Rs. P.

Rs. P.

4.40

4.00

(1) Asstt. Mistry (2) Armature Winder Grade II and III (3) Bhandari (4) Blacksmith (5) Blacksmith (Selection Grade; Grade II; Grade III; Class II & III; Head) (6) Boilerman (7) Boilerman (Grade II & III) (8) Boiler Foreman Grade II (9) Bhandari (10) Brick Layer (11) Bricklayer (Selection Grade; Class II), (12) Blasterer (13) Carpenter (14) Carpenter (Selection Grade; Grade II and III; Class I and III; Assistant; B.I.M. Road), (15) Cabinet Maker (16) Caneman (17) Celotex Cutter Maker (18) Chargeman Class II; and Class III, (19) Carpenter (Ordinary), (20) Checker (Junior), (21) Chick Maker (22) Chick Man (23) Concrete Mixture Mixer (24) Concrete Mixer Operator (25) Cobbler (26) Core-Maker (27) Driver (28) Driver (Motor; Vehicle; Motor Vehicle Selection Grade; Motor Lorry; Motor Lorry Grade II; Lorry; Lorry Grade II; Diesel Engine; Diesel Engine Grade II; Mixer Mechanical; Road Roller I.C. and Cement Mixer etc., Road Roller, (29) Road Roller Driver Grade II (30) Driver (Engine Static; Stone Crusher; Tractor/Bull Dozer; Steam Road Roller; Water Pump Mechanical; Assistant Road Roller; Mechanical; Steam Crane; Tractor with Bull Dozer Mechanical Transport; Engine Static and Road Roller; Boiler Attendant; Engine) (31) Operator (Stone Crusher Mechanical) (32) Distemperer (33) Electrician (34) Electrician (Grade II; Class II; Class III) (35) Fitter (36) Fitter (Selection Grade; Grade II; III; Class II; III; Assistant; Pipe; Pipe Class II; Pipe Line; Bending Bras for Reinforcement-cum-Mechanic; Mechanic and Plumber) (37) Gherami (Head) (38) Glazier (39) Hole Driller for Blasting (40) Joiner (41) Joiner (Cable; Grade II) (42) Line Man (Grade II; III; HT/LT) (43) Mason (44) Mason (Selection Grade; Grade II and III; Class II and III; Class B); Mistry Stone; Stone-Class II; Brick work; Stone Work; Bricklayer; Tile Flooring; B.T.M.; Muccadam; Head; Stone Cutting; Ordinary (45) Machinist (46) Mechanic (47) Mechanic (Class II; Air Conditioning Air Conditioning Grade II; Diesel Grade II; Road Roller Grade II; Assistant; Radio) (48) Mason (Gharani) (49) Mistry (50) Mistry (Grade II; Airconditioning Grade II; P. Way; Survey; Santaras; Works) (51) Mason Class A (52) Moulder (53) Moulder (Brick; Tile) (54) Painter; (55) Painter (Selection Grade; Grade II and III; Class II; Assistant; Lotter; and Polisher; Polisher; Rough) (56) Plasterer (57) Plasterer (Mason Grade II) (58) Plumber (59) Plumber (Selection Grade; Class II; Assistant Senior; Junior; Mistry Grade II) (60) Plumbing Mistry (61) Plumber-cum-Fitter (62) Polisher (63) Polisher (Flour) (64) Pump Driver (65) Pump Driver (Selection Grade I Grade II and III; Class II) (66) Pump (Engine Driver) (67) P.E. Driver (68) Pump Man (69) Pump Man (Asstt.) (70) Pumper (71) Polisher (with spray) Grade II (72) Ratan Man (73) River Cutter (Asstt.) (74) Rivetter (75) Rivetter (Cutter) (76) Road Inspector Grade II (77) Railway Plate Layer (78) Road Binder (79) Sawyer (80) Sawyer (Selection Grade; Class II) (81) Serang (82) Serang-pipe Driving Pantooms with Boiler (83) Snapsman (84) Shift-in-charge (85) Sprayman (86) Sprayman (Roads) (87) Stone Cutter (88) Stone Cutter (Selection Grade; Grade II; Class II) (89) Stone Chisler (90) Stone Chisler (Class II) (91) Stone Blasterer (92) Sub-Overseer (unqualified) (93) Surveyors (94) Surveyors (Asstt.) (95) Tailor (96) Tailor (upholstry) (97) Tar Sprayer (98) Tar Man (99) Line Man (100) Tiler (Class II; Wall; Floor; Roof) (101) Tiler (Selection Grade) (102) Tin Smith (103) Tin Smith (Selection Grade; Grade II and III; Class II) (104) Tinker (105) Trailers (106) Turner (107) Upholsterer (108) Upholsterer Grade II and III) (109) Painter Spray Class II (110) Wood Cutter (111) Wood Cutter Selection Grade

(112) Wood Cutter Class II (113) Work Sircar (114) Welder (115) Welder Gas (116) Welder (Class II; Bridge work) (117) Well Sinker (118) White Washer (119) White Washer (Selection Grade; Class II) (120) Wireman (121) Wireman (Grade II and III; Class I; Mechanic; Electrical) (122) White Washing and Colour Washing Man (123) Operator Pneumatic Tools (124) Operator (Fitter) (125) Boreman (126) Borer (127) Chipper (128) Chipper-cum-Grinder (129) Cook (Head); (130) Driller; (Well Boring) (131) Driver (Loco/Truck) (132) Electrician (Asstt.) (133) Mechanic (Tube-well); (134) Mistry (Steel; Tube-well; Telephone) (135) Meter Reader (136) Meteorological Observer (137) Navghani (138) Operator (Batching Plant; Cinema Project; Clamp Shell; Compressor; Crane; Derrick; Diesel Engine; Doser; Dragline; Drill; Dumper; Excavator; Fork Lift; Generator; Grader; Hack-Hammer and Pavement Breaker; Loader; Pump; Pile Driving; Scraper; Screening Plant; Shovel; Tractor; Vibrator; Weigh Balcher) (139) Railway Guards (140) Repairer (Battery) (141) Sharper/Slotter (142) Sprayer (Asphalt) (143) Station Master (144) Surveyor (Silt) (145) Tradesman (146) Train Examiner (147) Turner/Miller (148) Tyre Vulcaniser (149) Work (Asstt.) (150) Any other categories by whatever name called which are of a skilled nature.

Rs. P.

Rs. P.

6.60

6.00

HIGHLY SKILLED:

(1) Armature Winder Grade I (2) Blacksmith Grade I and Class I (3) Boilerman Grade I (4) Boilerman Foreman Grade I (5) Brick Layer Class I (6) Cable Joiner Grade I (7) Carpenter Grade I and Class I (8) Celotex Cutter and Decorator (9) Chargeman Class I (10) Checker (Senior) (11) Driver (Lorry Grade I; Motor Lorry; Grade I; Motor Vehicle Class I and Diesel Engine Grade I; Road Roller Grade I; Pump-Grade I; Pump Class I) (12) Electrician Grade I and Class I (13) Fitter (Grade I; Class I; Pipe Class I; Head) (14) Foreman (Asstt.) (15) Line Man Grade I (16) Mason (Skilled Grade I; Class I) (17) Mast Rigger Mechanic Class I and Class II (18) Mechanic (Head) or Electrician (19) Mechanic (Diesel Grade I; Road Roller Grade I; Air-conditioning Grade I; Class I; Air-Conditioning) (20) Mistry Grade I (21) Mistry (Air-Conditioning Grade I) (22) Overseer (23) Overseer (Senior and Junior) (24) Painter (Grade I; Class I; Spray) (25) Plasterer (Mason) Class I (26) Plumber (Head; Class I; Mistry Grade I (27) Polisher (with spray) Grade I (28) Road Inspector Grade I (29) Sawyer Class I (30) Stone Cutter Class I (31) Stone Cutter Grade I (32) Stone Chisler Class I (33) Stone Mason Class I (34) Sub-Overseer (Qualified) (35) Tiler Class I (36) Tinsmith Grade I and Class I (37) Upholsterer Grade I (38) Varnisher Class I (39) Welder-cum-Fitter and Air Conditioning Mechanic (40) Welder (Gas) Class I (41) White Washer Class I (42) Wireman Grade I; Class I (43) Wood Cutter Class I (44) Grinder (Tool) Grade I; (45) Operator (Batching Plant Grade I; Clamp Shell Gr. I; Compressor Gr. I Crane Gr. I; Diesel Engine Gr. I; Drill Gr. I; Dumper Gr. I; Excavator Gr. I; Fork Lift Gr. I; Pump Gr. I; Generator Gr. I; Grader Gr. I; Pile Driving Gr. I; Pump Gr. I; Scraper Gr. I; Screening Plant Grade I; Shovel Gr. I; Shovel and Dragline; Tractor Gr. I; Vibrator Gr. I; Rigger Gr. I; Rigger Grade II (46) Sharper/Slotter Grade (47) Tradesman Class I (48) Turner/Miller Grade I (49) Tyre Vulcaniser Grade I (50) Work (Asstt.) Grade I (51) Any other categories by whatever name called which are of a highly skilled nature.

8.25

7.50

CLERICAL

(1) M. C. Clerk (2) Munshi (Matriculate; Non Matriculate) (3) Store Clerks (Matriculate; Non-Matriculate) (4) Store Issuer (5) Store Keeper (6) Store Keeper (Grade I; II; Matriculate II; Non-matriculate) (7) Tally Clerk (8) Time keeper (9) Times Keeper (Matriculate; non-matriculate) (10) Tool Keeper (11) Work Munshi (12) Work Munshi (Subordinate) (13) Minshi (12) Work Munshi (Subordinate) (13) Accounts Accounts Clerks (14) Clerks (15) Computer (16) Telephone Operator (17) Typists (18) Any other categories by whatever name called which are of a clerical nature.

Matriculate

6.60

6.00

Non-Matriculate

4.40

4.00

Explanation:—For the purpose of this notification—

1. (a) Area C shall comprise of Jammu and Srinagar and all places within a distance of 8 Kilometres from the periphery of the Corporations/Municipalities/Cantonments Boards/Notified Area Committee etc. of these places.

(b) Area D shall comprise of all places in the State of Jammu and Kashmir not included in Area C.

2. Where in any area the wages fixed under this notification are lower than the wages fixed by the State Government for the corresponding scheduled employment for which it is the appropriate Government, the higher rate would be payable as minimum wage under this notification.

3. (a) Unskilled work is one which involves simple operations requiring little or no skill or experience on the job.

(b) Semi-skilled work is one which involves some degree of skill or competence acquired through experience on the job and which is capable of being performed under the supervision or guidance of a skilled employee, and includes unskilled supervisory work.

(c) Skilled work is one which involves skill or competence acquired through experience on the job or through training as an apprentice or in a technical or vocational institute and the performance of which calls for initiative and judgement.

4. The minimum rates of wages are applicable to employees engaged by contractors also.

5. The minimum rates of wages shall consist of an all-inclusive rates, and include also the wages for weekly day of rest.

6. The minimum rates of wages for young persons below 18 years of age and for disabled persons shall be 70 per cent of the rates payable to adult workers of the appropriate category.

[S-32019(9)/72-WE(MW)]

नई दिल्ली, 6 दिसम्बर, 1972

का.आ. 4171.—न्यूनतम मजदूरी अधिनियम, 1948 (1948 का 11) की धारा 4 की उपधारा (1) के खण्ड (3) के साथ पीठस धारा 3 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार द्वारा इससे उपाबद्ध अनुसूची के स्तम्भ 2 में यथाविनिर्दिष्ट मजदूरी की न्यूनतम दरों के, जो उन कर्मचारियों के प्रवर्गों को संबंध हैं, जो उक्त अनुसूची के स्तम्भ की तत्सम्बन्धी प्रविष्टियों में विनिर्दिष्ट :—

(1) सड़कों के संनिर्माण या उनके अनुरक्षण में या भवन-निर्माण के काम के,

(2) पत्थर तोड़ने या पत्थर का चूरा करने के,

(3) भवनों के अनुरक्षण के, और

(4) धावन पथों के संनिर्माण और अनुरक्षण के,

नियोजनों में जम्मू-कश्मीर राज्य में नियोजित हैं, नियतन के लिए किए गए निम्नलिखित प्रस्ताव उक्त अधिनियम की धारा 5 की उपधारा (1) के खण्ड (ख) द्वारा यथा अपेक्षित, उनसे संभाव्यतः प्रभावित होने वाली सभी व्यक्तियों की जानकारी के लिए एतद्-द्वारा प्रकाशित किए जाते हैं और एतद्द्वारा सूचित किया जाता है कि उक्त प्रस्तावों पर राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से तीन मास की समाप्ति पर या के पश्चात् विचार किया जाएगा।

उक्त प्रस्तावों के बारे में किसी भी व्यक्ति के ऊपर विनिर्दिष्ट अवधि के पूर्व प्राप्त होने वाले आक्षेपों या सूझावों पर केंद्रीय सरकार द्वारा विचार किया जाएगा।

काम का प्रवर्ग

प्रतिदिन सर्व-समावेशी मजदूरी की न्यूनतम दर

क्षेत्र ग

क्षेत्र ध

1

2

आकृशाल :

रू. पं.

(1) बजरी बिछाने वाला, (2) बेलदार (वयस्थ पुरुष/आवमी, वयस्थ महिला/स्त्री, कृमार/12 वर्ष से ऊपर के लड़के, लड़कियां, बच्चे) (3) गैली वाली, (4) धौकनी वाला, (5) गरीब वाला, (6) नाविक, (7) बाल्टी वाला, (8) पत्थर ढोनेवाला, (9) पानी ढोनेवाला, (10) गाड़ी वाला (11) रखवाला (पुल) (12) क्लीनर फ्रेंच ट्रंक, राख के गड्ढे के लिए सिण्डर), (13) चौकीदार (14) काफ़ीट (हस्त मिश्रक), (15) वफादार, (16) चालक (बैल, ऊंट, गधे, खच्चर) (17) झंड़ी वाला, (18) झंड़ी वाला (बलास्ट टैन) (19) वरखान, (20) गैंग मैन, (21) गैंग मैन (पक्का रेल पथ), (22) हंडल मैन, (23) जप्पर मैन, (24) कमीन (महिला काम) (25) खलासी (26) खलासी (आवमी/पुरुष), स्त्री/महिला, लड़के/लड़कियां, 1/11 पुल, वैद्युत; जहाजी, भांपला, तट भण्डार, भाप का सड़क इंजन सदैक्षण), (27) श्रमिक (उद्यान), (28) बत्ती वाला, (29) माली, (30) मजदूर, (31) मजदूर (वयस्थ पुरुष/आवमी, वयस्थ महिला/स्त्री), (32) मजदूर (कृमार/12 वर्ष की आयु से ऊपर के लड़के/लड़कियां; बच्चे, लॉरी, प्रशिक्षित) (33) पेट्रोल वाला (34) चपरासी, (35) तलाश करने वाला, (36) सिंगनल मैन, (37) स्ट्राइकर, (38) स्ट्राइकर (भांपला गैंग, (39) झाड़ूकश, (40) टाट्टी ब्याय, (41) टाइल टर्नर, (42) टाली वाला, (43) वाम्ब नियंत्रक (44) वाल्व मैन, (45) पहरदार, (46) पानी वाला, (47) सफाई करने वाला, (48) लकड़ी वाला, (49) लकड़ी वाला,

1

2

(50) बोरी मैन, (51) कोयले वाला, (52) कंसंसज अटेंडेंट, (53) घास काटने वाला, (54) मुकर्स जमादार, (55) स्लिंजर, (56) शंवर, (57) किसी भी नाम से कहलाने वाले प्रवर्ग जो अर्धकुशल किस्म के हैं.....

रु. पं.
3.30

रु. पं.
3.00

अर्धकुशल/अकुशल पर्यवेक्षकीय

(1) बेलचा वाला, (2) भिस्ती (3) भिस्ती (मशक के साथ), (4) नाविक (5) बूँकर, (6) बूँकर (चट्टान; चट्टानी पत्थर, स्टोन मंटल, पत्थर), (7) बैत की बुनाई करने वाला, (8) जरीबवाला (प्रधान) (9) चारपाई बनाने वाला, (10) चूँकर, (11) चौकीदार (प्रधान), (12) कोकर, (13) वृक्षचरी, (14) डोली वाला, (15) बरमा वाला, (16) बरमा वाला (छेव ; चट्टान) (17) झाड़वर (स्किन), (18) उखनक, (19) फ़ैरोमैन, (20) फायर मैन, (21) फायरमैन (इंट भट्टा, भाप का सड़क इंजन), (22) द्वापार, (23) धारमी (टप्पर छानेवाला), (24) ग्लास मैन, (25) ग्रीस बूँने वाला, (26) ग्रीस बूँने वाला एवं फायर मैन, (27) ग्रिण्डर, (28) हथौड़े वाला, (29) मव्दुगार (कारीगर) (30) मव्दुगार (आराकश), (31) (जमादार), (32) चाबीवाला, (33) खलासी प्रधान सर्वेक्षण, रिवेटर-भोपला गैंग , (सर्वेक्षक), (34) श्रमिक (चट्टान काटने वाला), (35) लसकर, (36) माली (प्रधान, (37) मेट, (38) मेट (लुहार , सड़क बड़ई ; इंजन झुहवर और/या फीडर ; फिटर ; गैंग , खलासी ; मजदूर ; राज ; पक्का रेल पथ ; पम्प-झुहवर , टर्नर), (39) मजदूर (भारी-वजन चार्ज मैन , मिस्त्री ; प्रधान), (40) मुक्कदूम ; (41) राल वाला गार्ड, (42) तेल वाला (43) खदानकार, (44) खदान-प्रचालक, (45) हरकारा (डक), (46) भण्डारक, (47) स्ट्रकर और (बायलर मैन), (49) टप्पर छाने वाला ; (50) थूमबा मैन (फावड़ा कर्मकार) (51) टिंडल (52) टूली वाला (प्रधान) मोटर (53) फिटर सहायक ; (अर्ध-कुशल), (54) जमादार ; (अर्धकुशल), (55) मेट (भण्डार), (56) पम्प परिवार, (57) बियरर, (58) बूँकमैन, (59) सखल वाला , (60) रसोइया, (61) डांडी, (62) फराश, (63) लोहा-आरी वाला, (64) मव्दुगार (रेल इंजन/क्रैन/ट्रक), (65) कासाब (66) खलासी (संरचनात्मक), (67) केन/ट्रक), (65) कासाब (68) खलासी (संरचनात्मक), (67) प्रयोगशाला-बाय, (68) माट्टी (नाविक), (69) मशाल्वी, (70) पीठ एम. मेट, (71) प्वांट मैन, (72) सीकम्बी, (73) तांपाज, (74) तांपकार (बड़े पत्थर तोड़ने वाला), (75) टूली जमादार, (76) बिंचवाला, (77) किसी भी नाम से कहलाने वाले अन्य प्रवर्ग जो अर्धकुशल किस्म के हैं

4.40

4.00

कुशल :

(1) सहायक मिस्त्री, (2) आर्मचर बांधने वाला श्रेणी II और III, (3) भंडारी, (4) लुहार, (5) लुहार (चयन श्रेणी , श्रेणी II, III, वर्ग II और III ; प्रधान) (6) बायलर मैन, (7) बायलर मैन (ग्रेड II और III, (8) बायलर फोर्समैन ग्रेड II, (9) भण्डारी, (10) थवाइंगर, (11) थवाइंगर (चयन श्रेणी), वर्ग-II), (12) उत्सफोटक, (13) बड़ई, (14) बड़ई (चयन श्रेणी, श्रेणी II और III, वर्ग I और III: सहायक, बी आई. एम रोड), (15) पेटीकार (16) केन मैन, (17) सैलोटैक्स कटर बनाने वाला, (18) चार्ज मैन वर्ग II और वर्ग III (19) बड़ई (सामान्य), (20) चूँकर (कनिष्ठ) (21) चिक बनाने वाला, (22) चिक वाला, (23) कंकरीट मिश्रण मिश्रक (24) कंकरीट मिश्रक प्रचालक,, (25) मोर्ची, (26) गुल्ली-बनाने वाला, (27) चालक, (28) चालक (मोटर, वाहन, मोटर वाहन चयन श्रेणी, मोटर लारी, मोटर लारी श्रेणी II, लारी, लारी श्रेणी II, डीजल इंजन, डीजल इंजन श्रेणी II, मशीन मिश्रक, सड़क इंजन आई. सी. और सीमेंट मिश्रक आदि , रोड रोस्टर, (29) रोड रोस्टर चालक श्रेणी II, (30) चालक (स्थिर इंजन ; पत्थर दलित, ट्रैक्टर/बुलडोजर , भाप का रोड रोस्टर , मशीनी ; पाना-पम्प ,

सहायक रोड रोलर मशीन , भाप श्रेण , बुलडोजर मैकॉनिकल ट्रांस-
पार्ट के साथ ट्रैक्टर ; इंजन ; स्थिर इंजन और रोड रोलर, बायलर
परिवार , इंजन) (31) प्रचलन (मशीनी पत्थर क्षीलित), (32) डिस्-
टेम्पर, (33) बिजली मिस्त्री (34) बिजली मिस्त्री (श्रेणी II , वर्ग
II , वर्ग III), (35) फिटर, (36) फटर (चयन श्रेणी , श्रेणी II , III ,
वर्ग II , III , सहायक, पाइप , पाइप वर्ग II ; पाइप लाइन , प्रवली-
करण के लिए नमन छह एवं-मैकॉनिक , मैकॉनिक , और प्लम्बर),
(37) धरमी (प्रधान), (38) शीशगार, (39) उत्स्फोटक के लिए
छेद बंधक, (40) जायनर, (41) जायनर (केवल , श्रेणी II), (42) लाइन
मैन (श्रेणी II , III, एच. टी. ग्ल. टी.), (43) राज मिस्त्री, (44) राज
मिस्त्री (चयन श्रेणी , श्रेणी II और III , वर्ग II और III , वर्ग ख मिस्त्री,
पत्थर, पत्थर श्रेणी II, इटि का काम, पत्थर का काम, थवाई, टाइल
फर्श बन्दी, वा. टी. एम. मुकुंदम, प्रधान, पत्थर कटार्ड, सामान्य),
(45) मशीन वाला, (46) मैकॉनिक, (47) मैकॉनिक वर्ग II, वसा-
नुकूलन वातानुकूल श्रेणी II, डीजल श्रेणी II, रोड रोलर श्रेणी II, सहायक
रीडियो), (48) राज मिस्त्री (धारमी), (49) मिस्त्री, (50) मिस्त्री (श्रेणी
II, वातानुकूल श्रेणी II, पी. व. सर्वेक्षण, संतरास, संकर्म), (51) राज
मिस्त्री वर्ग क, (52) सांचे वाला, (53) सांचे वाला (इटि, टाइल),
(54) पेंटर, (55) पेंटर (चयन श्रेणी , श्रेणी II और III, वर्ग II,
सहायक, लाटर, और पालिशगार, पालिशगार. अपरिक्त), (56) प्लास्टर
करने वाला, (57) प्लास्टर करने वाला (राज मिस्त्री श्रेणी II), (58)
प्लम्बर, (59) प्लम्बर (चयन श्रेणी, वर्ग II, सहायक, ज्युष्ट, कनिष्ठ,
मिस्त्री श्रेणी II) (60) प्लम्बर मिस्त्री, (61) प्लम्बर एवं फिटर, (62)
पालिशगार, (63) पालिशगार (फ्लॉर), (64) पम्प चालक, (65) पम्प
चालक (चयन श्रेणी, श्रेणी II और III वर्ग II), (66) पम्प (इंजन
चालक), (67) पी. ई. चालक, (68) पम्प वाला, (69) पम्प वाला
(सहायक), (70) पम्पर, (71) पालिशगार (स्प्रें के साथ श्रेणी II),
(72) रतन मैन, (73) रिबेट काटने वाला (सहायक) (74) रिबेटर,
(75) रिबेटर (काटने वाला), (76) सड़क निरीक्षक श्रेणी II, (77)
रेलवे प्लेट बिछाने वाला (78) छड़बंधकी, (79) आराकशा, (80)
आराकशा (चयन श्रेणी, वर्ग II, (81) संरंग, (82) बायलर के साथ रंग
पाइल ड्राइविंग पेंट्रूम, (83) स्नेप्समैन, (84) पारी-भार-साधक, (85)
फुहरिया, (86) फुहरिया (सड़क), (87) पत्थर काटने वाला, (88)
पत्थर काटने वाला (चयन श्रेणी, श्रेणी II, वर्ग II), (89) पत्थर तराशने
वाला, (90) पत्थर तराशने वाला, वर्ग II), (91) पत्थर उत्स्फोटक,
(92) सब-ओवरसियर (अनर्हित), (93) सर्वेक्षक, (94) सर्वेक्षक
(सहायक), (95) दर्जी, (96) दर्जी (गड्डी), (97) तारकोल फुह-
रिया, (98) तारकोल वाला, (99) लाइन मैन, (100) टाइलर
(वर्ग II, क्षीवार फर्श छत, (101) टाइलर (चयन श्रेणी), (102)
टीनकार, (103) टीनकार (चयन श्रेणी), (श्रेणी II, और III, वर्ग II),
(104) ठंढेरा, (105) ट्रैलर्स, (106) टर्नर, (107) गड्डी बनाने
वाला, (108) गड्डी बनाने वाला (श्रेणी II और III), (109) पेंटर
स्प्रें, वर्ग II, (110) लकड़हारा, (111) लकड़हारा, चयन श्रेणी, (112)
लकड़हारा वर्ग II, (113) वर्क सरकार, (114) भालाईगर, (115)
भाईगर गॅस, (116) झाईगर (वर्ग II, पुल का काम), (117) कुआं
खावने वाला, (118) सफेदी करने वाला, (119) सफेदी करने वाला
चयन (श्रेणी, वर्ग II), (120) तार मिस्त्री, (121) तार मिस्त्री (श्रेणी
II और III) वर्ग-1 मैकॉनिक, वैद्युत, (122) सफेदी और रंग करने
वाला, (123) वायदाबी ऑजार प्रचालक, (124) प्रचालक (फिटर),
(125) बंधन करने वाला, (126) बंधक, (127) चिप्पर, (128)
चिप्पर एवं मिह्र, (129) रसाइया (प्रधान), (130) बरमा वाला
(कआं खावना), (131) चालक (लोको ट्रक), (132) बिजली मिस्त्री
(सहायक), (133) मैकॉनिक (नल कूप), (134) मिस्त्री (स्टील,
मल कूप, टेलीफोन), (135) मीटर बाधक, (136) मौसम प्रक्षक,
(137) नवधानी, (138) प्रचालक (स्वामा पी संयंत्र, सिनेमा प्रक्षेपी,
कलेम्प रोल, सम्पीडित्र, क्रैन, डीरक, डीजल इंजन, डीजर, निकर्ष

(1)	(2)	रु. पैं.
<p>यंत्र, भरमा, डम्पर, उत्खनक, फार्क लिफ्ट, जॉनरटर, ग्रेंडर, हॉक हौमर और पेयमेन्ट साइने वाला, लीडर, पम्प, लट्ठा ठोकना, अप-धर्षक, आवरण, बेलचा, ट्रेक्टर, कम्पत्र, वजन स्वमापी), (139) रेलवे गार्ड, (140) मरम्मत करने वाला (बैट्री), (141) धार लगाने वाला/स्लाट काटने वाला, (142) फुहरिया (एसफाल्ट), (143) स्टेशन मास्टर, (144) सर्वेक्षक (मिलर), (145) व्यापारी, (146) रेलगाड़ी परीक्षक, (147) टर्नर, मिलर, (148) टायर बल्कनाइजर, (149) कार्य (सहायक), (150) किसी भी नाम से कहलाने वाले अन्य प्रवर्ग जो कुशल किस्म के हैं ।</p>	रु. पैं.	रु. पैं.
	6.60	6.00

अधिक कृशज :

आर्मेचर बांधने वाला श्रेणी-1, (2) लाहार श्रेणी II और वर्ग-1, (3) वायलर मैन श्रेणी-1, (4) वायलर मैन फोरमैन श्रेणी-1, (5) धवाङ्गर वर्ग-1, (6) केवल जायनर श्रेणी-1, (7) बटुई श्रेणी-1 और वर्ग I, (8) सलाटक्स कटर और सजाने वाला, (9) वार्ज मैन वर्ग-1, (10) चॉकर (ज्येष्ठ), (11) चालक (लारी श्रेणी-1 मोटर, लारी श्रेणी-1 मोटर वाहन वर्ग-1 और डीजल इंजन श्रेणी-1, रांड लोड रोलर श्रेणी-1, पम्प श्रेणी-1, (12) बिजली मिस्त्री श्रेणी-1 और वर्ग-1, (13) फिटर (श्रेणी-1, वर्ग-1, पाइप वर्ग-1, प्रधान) (14) फोरमैन (सहायक) (15) लाइन मैन श्रेणी-1, (16) राज मिस्त्री (कुशल श्रेणी-1, वर्ग-1), (17) मस्तूल रिगर मैकेनिक वर्ग-1, और वर्ग-II, (18) मैकेनिक (प्रधान) या बिजली मिस्त्री, (19) मैकेनिक (डीजल श्रेणी-1, रांड रोलर श्रेणी-1, वातानुकूलन श्रेणी-1, वर्ग-1, वातानुकूलन), (20) मिस्त्री श्रेणी-1, (21) मिस्त्री (वातानुकूलन श्रेणी-1, (22) ओवर-मियर, (23) ओवरीसयर (ज्येष्ठ और कनिष्ठ), (24) पेंटर (श्रेणी-1, वर्ग-1, स्प्रे), (25) प्लास्टर करने वाला (राज) वर्ग I, (26) प्लम्बर (प्रधान, वर्ग I, मिस्त्री, श्रेणी I), (27) पालिशगर (स्प्रे के साथ श्रेणी-1, (28) सड़क निरीक्षक श्रेणी-1, (29) अराकश वर्ग I, (30) पत्थर काटने वाला वर्ग I, (31) पत्थर काटने वाला श्रेणी I, (32) पत्थर तराशने वाला I, वर्ग I, (33) पत्थर राज मिस्त्री वर्ग I, (34) सब-ओवरीसयर (अर्द्ध), (35) टाइलर वर्ग I, (36) टीनकार श्रेणी I, और वर्ग I, (37) गड़दी बनाने वाला श्रेणी I, (38) वार्निशगर वर्ग I, (39) झलाइगर-एवं-फिटर और वातानुकूलन मैकेनिक, (40) भालाईगर (गैस) वर्ग I, (41) सफाई करने वाला वर्ग I, (42) तार मिस्त्री श्रेणी I, वर्ग I, (43) लकड़हारा वर्ग I, (44) ग्रिंडर (ऑजार) श्रेणी I, (45) प्रचालक (स्वमापी संयंत्र श्रेणी I, क्लैम्प शैली I, सम्पीत्र श्रेणी I, क्रेन श्रेणी I, डीजल इंजन श्रेणी I, डीजल श्रेणी I, निकर्षक यंत्र श्रेणी I, भरमा श्रेणी I, डम्पर श्रेणी I, उत्खनक श्रेणी I, फार्क लिफ्ट श्रेणी I, जॉनरटर श्रेणी I, ग्रेंडर श्रेणी I, लीडर श्रेणी I, लट्ठा ठोकने वाला श्रेणी I, पम्प ग्रेंड I, अपधर्षक श्रेणी I, आवरण संयंत्र श्रेणी I, बेलचा और निकर्षक यंत्र, ट्रेक्टर श्रेणी I, कम्पत्र श्रेणी I, रिगर श्रेणी I, रिगर श्रेणी II), (46) धार लगाने वाला I, स्लाट काटने वाला श्रेणी I, (47) व्यापारी वर्ग I, (48) टर्नर/मिलर श्रेणी I, (49) टायर बाल्कनाइजर श्रेणी I, (50) कार्य (सहायक) श्रेणी I, (51) किसी भी नाम से कहलाने वाले अन्य प्रवर्ग जो अधिक कुशल किस्म के हैं ।

8.25

7.50

लिपिक वर्ग :

(1) एम. सी. लिपिक, (2) मुंशी (मैट्रीकुलेट, नानमैट्रीकुलेट), (3) भण्डार लिपिक (मैट्रीकुलेट, नानमैट्रीकुलेट), (4) भण्डार निवासक, (5) भण्डारी, (6) (भण्डारी श्रेणी I, श्रेणी II, मैट्रीकुलेट II, नानमैट्रीकुलेट), (7) टेली क्लर्क, (8) समयपाल, (9) समयपाल (मैट्रीकुलेट, नानमैट्रीकुलेट), (10) ऑजार वाला, (11) कार्य मुंशी, (12) कार्य मुंशी (अधीनस्थ), (13) लेखालिपिक, (14) लिपिक, (15) संगणक, (16) टेलीफोन प्रचालक, (17) टाइपिस्ट, (18) किसी भी नाम से कहलाने वाले अन्य प्रवर्ग जो लिपिक हैं जैसे—

मैट्रीकुलेट

6.60

6.00

नानमैट्रीकुलेट

4.40

4.00

व्यष्टीकरण :— इस अधिसूचना के प्रयोजन के लिए —

1. (क) क्षेत्र ग में जम्मू और श्रीनगर और इन स्थानों के निगमों/नगर पालिकाओं/छावनी बोर्डों/अधिसूचित क्षेत्र समिति आदि की परिधि से आठ किलोमीटर की दूरी के अन्दर के सभी स्थान समाविष्ट होंगे।

(ख) क्षेत्र घ में जम्मू-कश्मीर राज्य के वे सभी स्थान समाविष्ट होंगे जो क्षेत्र ग में सम्मिलित नहीं हैं।

2. जहाँ कि किसी क्षेत्र में इस अधिसूचना के अधीन नियम की गई मजदूरी, राज्य सरकार द्वारा तत्समय अनुसूचित नियोजन के लिए नियत की गई मजदूरी से, जिसके लिए वह समुचित सरकार है, कम है वहाँ इस अधिसूचना के अधीन न्यूनतम मजदूरी के रूप में उच्चतर दर संदेय होगी।

3. (क) अकुशल काम वह है जिस में साधारण संक्रियाएँ और जिसे करने के लिए थोड़ी सी कुशलता या अनुभव का होना या बिल्कुल न होना अपेक्षित है।

(ख) अर्धकुशल काम वह है जिसमें कुशलता या क्षमता की मात्रा आए जिस काम कर अनुभव द्वारा प्राप्त किया जाए और जो किसी कुशल कर्मचारी के पर्यवेक्षण या मार्गदर्शन में किया जा सके तथा इसमें अर्धकुशल पर्यवेक्षणीय काम सम्मिलित है।

(ग) कुशल काम वह है जिसमें कुशलता या क्षमता आए जिस काम पर अनुभव द्वारा या शिक्षा के रूप में या किसी प्रत्योगिक या व्यावसायिक संस्थान में प्रशिक्षण द्वारा प्राप्त किया जा सके और जिसके करने में पहल और विवेकबुद्धि की आवश्यकता हो।

4. मजदूरी की न्यूनतम दरें ठेकेदारों द्वारा नियुक्त किए गए कर्मचारियों को भी लागू होती हैं।

5. मजदूरी की न्यूनतम दरों में सर्वसमावेशी दरें आ जाएंगी और इसमें विश्राम के साप्ताहिक दिन की मजदूरी भी शामिल होगी।

6. 18 वर्ष से कम आयु के व्यक्तियों के लिए और निःशुल्क व्यक्तियों के लिए मजदूरी की न्यूनतम दरें समुचित प्रवर्ग के वयस्थ कर्मचारों को संदेय दरों के 70 प्रतिशत के बराबर होंगी।

[सं. एस-32019(9)/72-इन्त्यु ई (एम इन्त्यु)]

हंसराज छावड़ा, अवर सचिव।

S.O. 4172.—The following proposals made by the Central Government in exercise of the powers conferred by clause (a) of sub-section (1) of section 3 read with clause (iii) of sub-section (1) of section 4 of the Minimum Wages Act, 1948, (11 of 1948), for fixing the minimum rates of wages as specified in column 2 of the Schedule, annexed hereto payable to the categories of employees employed in employments in agriculture in the State of Jammu and Kashmir, specified in the corresponding entries in column 1 of the said schedule, are hereby published, as required by clause (b) of sub-section (1) of section 5 of the said Act for information of all persons likely to be affected thereby and notice is hereby given that the said proposals shall be taken into consideration on or after the expiry of three months from the date of publication of this notification in the Official Gazette.

Any objection or suggestion which may be received from any person with respect to the said proposals before the period specified above will be considered by the Central Government.

THE SCHEDULE

Categories of employees	All inclusive minimum rates of wages per day	
	Area-C	Area-D
	Rs. P.	Rs. P.
1	2	3
UNSKILLED		
(1) Beldar (Male/Female); (2) Calf Boy; (3) Cattleman; (4) Chowkidar; (5) Cleaner; (6) Cleaner (Motor, Shed, Tractor, Cattle Yard; M.T.); (7) Collecting Loose fodder; (8) Dhobi; (9) Dairy Coolies; (10) Dairy-Man; (11) Dismantling Stocks; (12) Dresser; (13) Driver (Bullocks; Mule); (14) Feeder (Adult) Hay; (15) Grass Cutter; (16) Grazier; (17) Helper; (Store-Mazdoor); (18) Labourer (Male; Female; Bulter; Cattle Yard; Cultivation; General; Loading & Unloading; Bundling; Carting; Fertilizers; Harvesting; Miscellaneous; Seeding; Sowing; Thatching; Transplanting; Weeding); (19) Mali; (20) Mazdoor (Arboriculturists; Compost; Dairy; Hay Stacking; Irrigation; Manure; Stacking; Milk Room; Ration Room; Store; Anti-Malaria; M.R.); (21) Messenger (Office); (22) Peon; (23) Syce; (24) Tying & Carrying Loose Hay; (25) Sweeper; (26) Weighing & Carrying Bales; (27) Weighman (Bales; Pally); (28) Waterman; (29) Wire-Cutter; (30) Wireman & Fixing Tin Labels; (31) Stable Man; (32) Trolley Man; (33) Any other categories by whatever name called which are of unskilled nature.	3.30	3.00
Semi-Skilled/Unskilled Supervisory		
(1) Assistant (Chowdhary); (2) Attendant (Bull; Calving Line; Chaff Cutter; Hostel; Dry Stock Grain Crusher; Pump; Sick-Line; Stable; Yard; Stock); (3) Assistant (Plumber); (4) Attendant; (5) Bhisti; (6) Brander; (7) Bullman; (8) Butter-man; (9) Coachman; (10) Cobbler; (11) Cultivator; (12) Daftry; (13) Delivery Man; (14) Dresser; (15) Farrier; (16) Feeders; (17) Fireman; (18) Gowalas; (19) Hammerman; (20) Helper; (21) Helper (Blacksmith); (22) Jamadar (Stand); (23) Jamadar; (24) Khalasi; (25) Mali (Senior); (26) Mate/Mistry; (27) Mazdoor (Literale);		

1	2	3
(28) Nelband; (29) Oilman; (30) Ploughman; (31) Stackers; (32) Supervisor; (33) Thatcher; (34) Weighman; (35) Valveman; (36) Valveman (Senior); (37) Any other categories by whatever name called which are of a semi-skilled nature.	4.40	4.00
SKILLED		
(1) Artificier (Class II, III, IV); (2) Blacksmith, (3) Blacksmith (Class II); (4) Boiler Man; (5) Carpenter; (6) Carpenter (Class II); (7) Carpenter-cum-Blacksmith; (8) Chowdhary; (9) Driver; (10) Driver (Engine Tractor, M. T., Motor); (11) Electrician; (12) Fitter; (13) Mason; (14) Mason Class II; (15) Machine Hand (Class II, III, IV); (16) Machineman; (17) Mate Grade I (Senior); (18) Mechanic; (19) Milk Worker; (20) Mistry (Head); (21) Moulder; (22) Muster Worker; (23) Operator (Tube-well); (24) Painter; (25) Plumber; (26) Welder; (27) Wireman; (28) Upholsterer; (29) Any other categories by whatever name called which are of a skilled nature.	6.60	6.00
HIGHLY SKILLED		
(1) Artificier Class I; (2) Blacksmith Class I; (3) Carpenter Class I; (4) Machine Hand Class I; (5) Mason Class I; (6) Mechanic (Senior); (7) Any other categories by whatever name called which are of highly skilled nature.	8.25	7.50
CLERICAL		
(1) Assistant (Farm); (2) Assistant; (3) Cashier; (4) Clerk; (5) Munshi; (6) Register-keeper; (7) Store-keeper; (8) Time-keeper; (9) Typist; (10) Any other categories by whatever name called which are of a clerical nature.		
<i>Matriculates</i>	6.60	6.00
<i>Non-Matriculates</i>	4.40	4.00

Explanation:—For the purpose of this notification :—

1. (a) **Area C** shall comprise of Jammu and Srinagar and all places within a distance of 8 kilometres from the periphery of the Corporations/Municipalities/Contonment Board/Notified Area, Committee etc. of these places.

(b) **Area D** shall comprise of all other places in the State of Jammu and Kashmir.

2. Where in any area the wages fixed under this notification are lower than the wages fixed by the State Government for the corresponding scheduled employment for which it is the appropriate Government, the higher rate would be payable as minimum wages under this notification.

3. (a) **Unskilled** work is one which involves simple operations requiring little or no skill or experience on the job

(b) **Semi-skilled** work is one which involves some degree of skill or competence acquired through experience on the job and which is capable of being performed under the supervision or guidance of a skilled employee, and includes unskilled supervisory work.

(c) **Skilled** work is one which involves skill or competence acquired through experience on the job or through training as an apprentice or in a technical or vocational institute and the performance of which calls for initiative and judgment.

4. The minimum rates of wages are applicable to employees engaged by contractors also.

5. The minimum rates of wages shall consist of an all inclusive rates, and include also the wages for weekly day of rest.

17 G. of 1/72—10.

6. The minimum rates of wages for young persons below 18 years of age and for disabled persons shall be 70 per cent of the rates payable to adult workers of the appropriate category.

[S-32019(14)/72-WF(MW)]

HANS RAJ CHHABRA, Under Secy.

का. आ. 4172.—न्यूनतममजदूरी अधिनियम, 1948 (1948 का 11) की धारा 4 की उपधारा (1) के खण्ड (iii) के साथ पठित धारा 3 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार द्वारा, इससे उपाबद्ध अनुसूची के स्तम्भ 2 में यथाविनिर्दिष्ट मजदूरी की न्यूनतम दरों को, जो जम्मू-कश्मीर राज्य में कृषि के नियोजन में नियोजित कर्मचारियों के उन प्रवर्गों के संद्वय हैं जो उक्त अनुसूची के स्तम्भ 1 की तत्सम्बन्धी प्राविष्टियों में विनिर्दिष्ट हैं, नियत करने के लिए किए गए निम्नीलिखित प्रस्ताव, उक्त अधिनियम की धारा 5 की उपधारा (1) के खण्ड (ख) द्वारा यथाअपीक्षित उन सभी व्यक्तियों की जानकारी के लिए, जिनका उससे प्रभावित होना संभाव्य है, एतद्द्वारा प्रकाशित किए जाते हैं और एतद्द्वारा यह सूचना दी जाती है कि राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से तीन मास के अवसान पर या उसके पश्चात् उक्त प्रस्तावों पर विचार किया जाएगा।

किसी भी ऐसे आक्षेप या सूझाव पर, जो ऊपर विनिर्दिष्ट कालावधि के पूर्व उक्त प्रस्तावों की बाबत किसी व्यक्ति से प्राप्त हो, केन्द्रीय सरकार द्वारा विचार किया जाएगा।

अनुसूची

काम का प्रवर्ग

सब मिलाकर प्रतिदिन मजदूरी की
न्यूनतम दर
क्षेत्र ग क्षेत्र ध

अक,शाल

(1) बेलदार (पुरुष/स्त्री), (2) काफ बाय, (3) पशुपालन; (4) चाँकीदार; (5) क्लीनर; (6) क्लीनर (मोटर, शॉट, ट्रैक्टर, पशुशाला, एम. टी.); (7) खुला चारा एकत्रित करना; (8) धाँबी; (9) डेरी कूली; (10) डेरी वाला; (11) स्टॉक खोलना; (12) ट्रैसर; (13) डाइवर; (बैल, खस्वर); (14) फीडर (बयस्क) सूखी घास; (15) घास काटने वाला; (16) चरवाहा; (17) मददगार (भण्डार-मजदूर); (18) श्रमिक (पुरुष/स्त्री) बायलर, पशुशाला, खेती, साधारण, लड़ाई और उत्तराई, बडल बनाना, टोना, उर्वरक, कटाई, प्रकीर्ण, बीनन, बुवाई, छप्पर छाना, प्रतिरोपन, निराई; (19) माली; (20) मजदूर (वृक्ष संवर्धक; कम्पोस्ट, डेरी, घास का चट्टा लगाना, सिंचाई, खाद, चट्टा लगाना दूग्धकक्ष, राशन कक्ष, भण्डार, मल्लिरिया-संधक, एन. आर); (21) संदेशवाहक (कार्यालय); (22) चपरासी; (23) सईस; (24) खुली घास बाँधना और ढाँगा; (25) रबीपर (भाड़ूकश); (26) गाँठ तोलना और ढाँगा; (27) तोलने वाला (गाँठ, पल्ली); (28) पानी वाला; (29) तार काटने वाला; (30) तार मिस्त्री और तीन लेबल बिपकाना; (31) अस्तबल वाला; (32) टोली वाला; (33) किसी भी नाम से कहलाने वाले कोई अन्य प्रवर्ग, जो अक,शाल प्रकार के हैं।

3.30

3.00

अर्धक,शाल/या अक,शाल पर्यवेक्षकीय :

(1) सहायक (चाँधरी); (2) परिवारक (सांड), ब्याना-स्थल, कट्टी-मशीन, क्षात्रावास, सूखा पशुधन, अनाज-क्रशर, पम्प, रांगी पशु, आवास, अस्तबल, बाई, पशुधन; (3) सहायक (प्लम्बर); (4) परिवारक; (5) मिस्त्री; (6) बाँडर; (7) सांड वाला; (8) मकानवाला; (9) कोचवान; (10) मोषी; (11) कृषक; (12) दफ्तरी; (13) पत्र-वितरक; (14) ड्रैसर; (15) फीरर (ताल लगानेवाला); (16) फीडर; (17) फायरमैन; (18) ग्वाला; (19) हथौड़ावाला; (20) मददगार (लोहार); (21) मददगार; (22) जमादार (संतरी); (23) जमादार; (24) खलासी; (25) माली (ज्येष्ठ); (26) मेट/मिस्त्री; (27) मजदूर (प्रशिक्षित); (28) नालबन्द; (29) तलवाला; (3) हलवाहा; (31) चट्टा लगाने वाला; (32) पर्यवेक्षक; (33) छप्पर छाने वाला; (34) तोलने वाला; (35) वाल्वमैन; (36) वाल्वमैन (ज्येष्ठ); (37) किसी भी नाम से कहलाने वाले कोई अन्य प्रवर्ग, जो अर्धक,शाल प्रकार के हैं।

4.40

4.00

क,शाल

(1) कारीगर (वर्ग 2, 3, 4); (2) लोहार; (3) लोहार (वर्ग 2); (4) बायलरमैन; (5) बर्छ, (6) बर्छ (वर्ग 2); (7) बर्छ और लोहार; (8) चाँधरी; (9) चालक (डाइवर); (10) चालक (डाइवर) इंजन ट्रैक्टर; एम. टी. मोटर; (11) बिजली मिस्त्री; (12) फीटर; (13) राजमिस्त्री; (14) राजमिस्त्री (वर्ग 2); (15) मशीन हँड (वर्ग 2, 3, 4); (16) मशीन वाला; (17) मेट श्रेणी-1 (ज्येष्ठ); (18) मैकेनिक; (19) दूग्ध राइटर; (20) मिस्त्री (प्रधान); (21) साँच वाला; (22) उपस्थिति राइटर; (23) प्रचालक (नलकूप); (24) पेंटर; (25) प्लम्बर (नलसाज); प्रचालक (नलकूप); (24) पेंटर; (25) प्लम्बर (नलसाज); किसी भी नाम से कहलाने वाला कोई अन्य प्रवर्ग जो क,शाल प्रकार के हैं।

6.60

6.00

	(1)	(2)	(3)	(4)
अधिक कृशल :				
(1) कारगेर वर्ग (1); (2) लोहार वर्ग (1), (3) बड़ई वर्ग (1), (4) मशीन हंड वर्ग (1); (5) राज-मिस्त्री वर्ग (1), (6) मैकैनिक (ज्येष्ठ); (7) किसी भी नाम से कहलाने वाले अन्य प्रवर्ग, जो अधिक कृशल प्रकार के हों।		8.25		7.50
लिपिक वर्ग :				
(1) सहायक (फार्म); (2) सहायक; (3) रॉकीड़िया; (4) लिपिक; (5) मुंशी; (6) रजिस्टरपाल; (7) स्टोर-कीपर (भण्डारी); (8) समयपाल (टाइम-कीपर); (9) टाईपिस्ट; (1) किसी भी नाम से कहलाने वाले कोई अन्य प्रवर्ग, जो लिपिक वर्ग प्रकार के हों।				
	मैट्रीकुलेट	6.60		6.00
	नान-मैट्रीकुलेट	4.40		4.00

स्पष्टिकरण : इस अधिसूचना के प्रयोजन के लिए :—

1. (क) क्षेत्रक।

स्पष्टिकरण : इस अधिसूचना के प्रयोजन के लिए :—

1. (क) क्षेत्र ग के अन्तर्गत जम्मू और श्रीनगर और इन स्थानों के निगमों/नगरपालिकाओं/लावनी बंडों/अधिसूचित क्षेत्र, समिति आदि की परीधि से 8 किलोमीटर की दूरी के अन्दर के सभी स्थान समाविष्ट होंगे।

(ख) क्षेत्र घ के अन्तर्गत जम्मू-कश्मीर राज्य के सभी अन्य स्थान समाविष्ट होंगे।

2. जहाँ कि किसी क्षेत्र में इस अधिसूचना के अधीन नियत की गई मजदूरी राज्य सरकार द्वारा तत्समय अनुसूचित नियोजन के लिए नियत की गई मजदूरी से, जिसके लिए वह समुचित सरकार हैं, कम हैं वहाँ इस अधिसूचना के अधीन न्यूनतम मजदूरी के रूप में उच्चतर दर संदेव होगी।

3. (क) अकृशल काम वह हैं जिस में साधारण सक्रियाएँ और जिसे करने के लिए थोड़ी सी कृशलता या अनुभव का होना या बिलकुल ही न होना अपेक्षित हो।

(ख) अर्धकृशल काम वह हैं जिसमें कृशलता या क्षमता की कुछ मात्रा आए जिस काम को अनुभव द्वारा प्राप्त किया जाए और जो किसी कृशल कर्मचारी के पर्यवेक्षण या मार्गदर्शन में किया जा सके तथा इसमें अर्धकृशल पर्यवेक्षकीय काम सम्मिलित हैं।

(ग) कृशल काम वह हैं जिसमें कृशलता या क्षमता आए जिसे काम पर अनुभव द्वारा या शिक्षा के रूप में या किसी प्रौद्योगिक या व्यावसायिक मंस्थान में प्रशिक्षण द्वारा प्राप्त किया जा सके और जिसके करने में पहल और विवेक बुद्धि की आवश्यकता हो।

4. मजदूरी की न्यूनतम दरें ठेकेदारों द्वारा नियुक्त किए गए कर्मचारियों को भी लागू होती हैं।

5 मजदूरी की न्यूनतम दरों में सर्वसमावेशी दरें आ जाएंगी और इसमें विश्राम के साप्ताहिक दिन की मजदूरी भी शामिल होगी।

6 18 वर्ष से कम आयु के व्यक्तियों के लिए और निशुल्क व्यक्तियों के लिए मजदूरी की न्यूनतम दरें समुचित प्रवर्ग के वयस्क कर्मचारियों को संदेव दरों के 70 प्रतिशत के बराबर होंगी।

[सं. एस-32019(14)/72-हक्यू ई (एम हक्यू)]

हंसराज छाबड़ा, अवर सचिव

New Delhi, the 6th December, 72

S.O. 4173.—In exercise of the powers conferred by section 4 of the Iron Ore Mines Labour Welfare Cess Act, 1961 (58 of 1961) read with Rule 3 of the Iron Ore Mines Labour Welfare Cess Rules, 1963, and in supersession of the notification of the Government of India in the Ministry of Labour and Rehabilitation (Department of Labour and Employment) No. S.O. 1116 dated the 11th March, 1969, the Central Government hereby constitutes an Advisory Committee for the Union territory of Goa, Daman and Diu with the following as members, namely :—

1. Labour Minister, Goa, Daman and Diu, Panaji.	Chairman
2. Welfare Commissioner, Iron Ore Mines Labour Welfare Fund, Goa, Daman and Diu	Vice-Chairman
3. Shri Vasant Joshi, M.L.A., Sambhaji, Goa.	Member of the Legislative Assembly.
4. Shri Vassudev V. Dempo C/o M/s V.S. Dempo and Co. Pvt. Ltd., Goa.	Representatives of Iron Ore Mine Owners.
5. Shri Cipriano de Souza, Mine Owners, Sankali, Goa	
6. Shri Vasudev Arjun Gavas, C/o National Mine Workers Union Curchorem— Saverjcm (Goa)	Representatives of Mine Workers
7. Shri Alfred Alfanzo, C/o National Mine Workers Union, Veglem—Bicholim (Goa)	
8. Dr. (Smt.) S.M. Khemani, Mapusa, Bardez—Goa	Woman representative
9. Welfare Administrator, Iron Ore Mines Labour Welfare Fund, Goa, Daman & Diu, Panaji	Secretary

2. In pursuance of rule 18 of the Iron Ore Mines Labour Welfare Cess Rules, 1963, the Central Government hereby fixes Panaji to the headquarters of the said Advisory Committee.

[F. No. U. 19012/6/71-M. IV]

P. R. NAYAR, Under Secretary

नई दिल्ली, 6 दिसम्बर, 1972

क्र० आ० 4173.—लौह अयस्क खान श्रम कल्याण उपकर नियम, 1953 के नियम 3 के साथ पाठित, लौह अयस्क खान श्रम कल्याण उपकर अधिनियम, 1961 (1961 का 58) की धारा 4 द्वारा प्रदान शक्तियों का प्रयोग करते हुए और भारत सरकार के श्रम और पुनर्वासि मन्त्रालय (श्रम और रोजगार विभाग) की अधिसूचना सं० का० आ० 1116, तारीख 11 मार्च, 1969 को अधिकांत करने हुए, केन्द्रीय सरकार, गोवा, दमण और दीव संघ राज्य क्षेत्र के लिए एक सलाहकार समिति एतद्वारा गठित करती है, जिसमें निम्नलिखित सदस्य होंगे, अर्थात्:—

- | | |
|---------------------------------------|-------------------|
| 1. श्रम मंत्री, | अध्यक्ष |
| गोवा, दमण और दीव, | |
| पणजी | |
| 2. कल्याण आयुक्त, | उपाध्यक्ष |
| लौह अयस्क खान श्रम कल्याण निधि, | |
| गोवा दमण और दीव | |
| 3. श्री बसन्त जोशी, सदस्य विधानमण्डल, | सदस्य विधान मण्डल |
| सम्भाजी, गोवा | |

- | | | |
|--------------------------------------------------------------|---|--------------------------------------|
| 4. श्री वसुदेव बी० डेम्पो | } | लौह अयस्क खान स्वामियों के प्रतिनिधि |
| एण्ड कम्पनी प्राइवेट लिमिटेड,
गोवा | | |
| 5. श्री मिप्रिआनो डि सूजा | } | खान स्वामी |
| सांकली, गोवा | | |
| 6. श्री वसुदेव अर्जुन गायम, | } | खान कर्मकारों के प्रतिनिधि |
| मार्फत राष्ट्रीय खान कर्मकार संघ,
कुश्चोरम—मयोंगदम (गोवा) | | |
| 7. श्री थॉमस अल्फारो | } | महिला प्रतिनिधि |
| मार्फत राष्ट्रीय खान कर्मकार संघ,
बेगलेम—बिचोलीम (गोवा) | | |
| 8. डा० (श्रीमती) एम० एम० खंमानी, | | सचिव |
| मपूसा, बारडोख—गोवा | | |
| 9. कल्याण प्रशासक, | | |
| लौह अयस्क खान श्रम कल्याण निधि, | | |
| गोवा, दमण और दीव, | | |
| पणजी | | |

2. लौह अयस्क खान श्रम कल्याण उपकर नियम, 1963 के नियम 18 के अनुसरण में, केन्द्रीय सरकार, पणजी को उक्त सलाहकार समिति का मुख्यालय एतद्वारा नियत करती है।

[फ० सं० यू० 19012/6/71-एम IV]

पी० आर० नैयर, अवर सचिव